Chapter 410, ZONING

[Adopted by the City Council of the City of Binghamton 8-7-2006 by Ord. No. 06-31 (Appendix A of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES
Commission on Architecture and Urban Design -- See Ch. 18, Art. VI.
Landmarks Preservation Commission -- See Ch. 18, Art. XII.
Building construction -- See Ch. 200.
Unsafe buildings -- See Ch. 203.
Erosion control -- See Ch. 227.
Flood damage prevention -- See Ch. 240.
Housing and property maintenance -- See Ch. 265.
Collateral loan brokers and secondhand dealers -- See Ch. 275, Arts. II and III.
Noise -- See Ch. 292. Use of rights-of-way -- See Ch. 327.
Sewer use -- See Ch. 342. Solid waste -- See Ch. 350.
Subdivision of land -- See Ch. 360.
Water -- See Ch. 405.

ARTICLE I, Title; Purpose and Intent

§ 410-1. Title.

This chapter shall be known and cited as the "Zoning Ordinance of the City of Binghamton, New York."

§ 410-2. Purpose and intent.

The purpose of this chapter is to implement the policies of the City of Binghamton as expressed in the Comprehensive Plan adopted by City Council on August 1, 2014. It is intended that the provisions of this chapter shall be held to be the minimum requirements adopted for, among others, the following purposes:

A. To promote the public health, safety and general welfare of the citizens.

B. To provide adequate light, air, and privacy, and to secure safety from fire and other dangers.

C. To prevent the overcrowding of land and the undue concentration of population.

D. To protect natural features such as forested areas and water and drainage courses, and to minimize the hazards to persons and damage to property resulting from the accumulation or runoff of storm and flood waters.

E. To protect and conserve the existing or planned character of all parts of the City and, thereby, aid in maintaining their stability and value, and to encourage the beneficial development of all parts of the City.

F. To provide a guide for public policy and action that will facilitate the economical provision of public facilities and services, and for private enterprise in building development, investment and other economic activity relating to use of land and buildings throughout the City.

G. To minimize conflict among uses of land and buildings, and to bring about the gradual conformity of uses of land and buildings throughout the City to the concepts of a well-considered plan.

H. To divide the City into districts and to prescribe for each such district the trades, industries and land use activities that shall be permitted, excluded or subjected to special regulations before buildings are altered or erected, or land is used.

I. Pursuant to and in accordance with the provisions of § 20(24) of the General City Law, to regulate and limit the height, bulk and location of buildings hereafter erected, to regulate and determine the area of yards, courts and other open spaces, and to regulate the density of population in any given area.

J. To safeguard the heritage of the City of Binghamton by preserving significant districts and landmarks which reflect periods of its cultural, social, economic, political, artistic and architectural history.

K. To promote the preservation, rehabilitation, restoration and use of historic landmarks and buildings for the education, pleasure and general welfare of City residents.

ARTICLE II, Definitions

§ 410-3. Applicability of article.

For the purpose of this chapter, meanings of the following words and phrases shall be as defined in this Article II.

§ 410-4. Interpretation.

Words used in present tense shall include the future tense. The singular number shall include the plural number and the plural number the singular number. The word "building" shall include the word "structure." The word "shall" is mandatory; the word "may" is permissive.

§ 410-5. Terms defined. [Amended 3-2-09 by Ord. No. 9-2009; Amended 7-20-09 by Ord. No. 23 2009; Amended 12-21-2011 by Ord. No. 11-51; Amended 8-7-2013 by Ord. No. 13-49; Amended 2-3 2016 by Local Law 16-02; Amended 2-11-2026 by Ord. No. 26-12]

As used in this chapter, the following terms shall have the meanings indicated:

ABUTS, ABUTTING -- Having a common property line or zoning district line; adjoining, touching.

ACCESSORY BUILDING -- A building subordinate to the main building on the lot and used for purposes customarily incidental to that of the main building. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.

ACCESSORY USE -- A use that is customarily incidental and subordinate to the principal use on a lot, and located on the same tax parcel. An accessory use may not be accessory to another accessory use.

ADJACENT -- To lie near or close to; in the neighborhood or vicinity of but not necessarily touching.

ADULT ENTERTAINMENT – Any establishment having as a significant portion of its stock in trade media, merchandise, or live entertainment which is characterized by emphasis on the description or depiction of specific anatomical areas or specified sexual activities as defined in this section. Examples of such facilities include, but are not limited to: adult entertainment establishments, adult bookstore, and adult novelty store.

AFFORDABLE HOUSING -- A dwelling unit that is or will be restricted, pursuant to a regulatory agreement, to occupancy by a household whose income does not exceed 80% of the area median income (AMD for the Binghamton Metropolitan Statistical Area as defined annually by the U.S. Department of Housing and Urban Development (HUD)

AGRICULTURE -- The growing of crops, fruits, plants, vines, trees or shrubs for commercial sale and accessory uses customarily incidental to such activities. See also "Garden, community or neighborhood," and "Greenhouse/nursery."

ALCOHOL OR DRUG REHABILITATION FACILITY -- A state-licensed facility where alcohol and drug abusers can be placed in lieu of incarceration for detoxification from the effects of alcohol and drugs. For the purposes of this chapter, such use shall be considered “Social Services.”

ALLEY -- A dedicated public thoroughfare affording a secondary means of access to abutting property and not intended for general traffic circulation.

ALTERATIONS -- Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors, windows, means of ingress or egress, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another. Normal repairs and maintenance shall not be considered as alterations.

AMUSEMENT ARCADE -- An indoor amusement and recreation establishment wherein the principal use is the provision of electronic or mechanical game devices available to the public on a commercial (pay in order to play) basis. See “Recreation, Indoor”

ANIMAL CARE – A facility designed or arranged for the care of animals. Examples of such facilities include, but are not limited to: animal grooming; animal hospital; veterinary clinic; animal boarding; animal shelter; commercial kennel; and pet grooming. For the purposes of this chapter, this definition shall not include “kennel, residential.”

ANTENNA AND SATELLITE DISH -- A structure or device utilized for the receiving and/or transmitting of communication signals, not enclosed within a building or structure, and any form of satellite receiving dishes. It shall specifically exclude customary VHF and UHF television antennas and television/radio transmission towers licensed for public broadcast by the Federal Communications Commission.

AUTOMATIC TELLER MACHINE -- Any establishment or device whose purpose is the performance of financial transactions to a customer without the aid of a teller.

AUTOMOBILE FUEL STATION -- See “Vehicle Fuel Station.”

AUTOMOBILE SALES/RENTAL -- See “Vehicle Sales/Rental.”

AUTOMOBILE REPAIR/SERVICE – See “Vehicle Repair/Service.”

AWNING/CANOPY -- A roof-like cover made of canvas or similar material which projects from the wall of a building for the purpose of shielding a doorway or window from the elements, not including a marquee. An awning or canopy may or may not have signage.

BAKERY, WHOLESALE -- A light industrial operation for the baking of breads and/or pastries for sale off-premises. For the purposes of this chapter, this use shall be considered “Light Industry.”

BANK AND FINANCIAL INSTITUTIONS -- A building or structure utilized for direct transactional services to the public, including the maintenance of checking and savings accounts, certificates of deposits, etc., and the providing of related incidental financial services associated with a bank; does not including check cashing stores or collateral loan brokers. For the purposes of this chapter, this use shall be considered an “Office.”

BASEMENT -- That habitable space of a building that is partly below grade which has more than half of its height, on average, measured from floor to ceiling, above the finished grade of the ground around the building (See also "cellar."); counted as 1/2 story in determining building height.

BED-AND-BREAKFAST, HOME -- An owner-occupied one- or two-family home that provides one to five rooms for paying guests on an overnight basis. Guest occupancy periods shall not exceed 21 consecutive days

BEDROOM -- Any room in a dwelling that is to be used for sleeping. Bedrooms cannot be leased/rented on an individual basis. A bedroom is distinct from "Sleeping Unit" as defined in this chapter.

BILLBOARD -- See Article XI, § 410-60B(2).

BILLIARD PARLOR/POOL HALL -- An establishment where more than 50% of the business is dedicated to billiards. For the purposes of this chapter, this use shall be considered "Indoor Recreation."

BIORETENTION -- An integrated stormwater management practice that uses the chemical, biological, and physical properties of plants, microbes and soils to remove or retain pollutants from stormwater. Bioretention areas may or may not have an under drain.

BIORETENTION AREAS -- shallow depressions with a designed planting soil mix and a variety of plant material, including trees, shrubs, grasses.

BOARDINGHOUSE -- An owner-occupied dwelling with up to three roomers or lodgers in the same household, who are lodged with or without meals, and in which there are provided such services as areincidental to the use of the dwelling as a temporary residence for part of the occupants. (See also "rooming house.") For the purposes of this chapter, this use shall be considered "Congregate Living."

BOWLING ALLEY -- A building or structure utilized primarily for the sport of bowling, and may include the incidental sale or dispensing of food and drink and the sale or rental of bowling equipment. For the purposes of this chapter, this use shall be considered "Indoor Recreation."

BREWERY/ DISTILLERY --An industrial operation involving the brewing or distillation and/or bottling for local, regional, or national distribution and packaged sales. This definition shall include breweries that produce greater than 60,000 barrels annually and distilleries that produce greater than 75,000 gallons annually. For the purposes of this chapter, such use shall be considered "Light Industry." See also "Microbrewery."

BUFFER STRIP -- A strip of land, generally adjacent to a property line, in which a screen of plantings with or without solid fencing is installed and maintained by the owner of the property. Such screen shall be planted with deciduous or evergreen trees and shrubs in any combination deemed appropriate which is dense enough and high enough to be a buffer between properties. (See § 410-18.)

BUILDING -- A structure where space is covered or enclosed for the use, shelter, storage or protection of persons, animals, in-ground swimming pools or property of any kind, and which is permanently affixed to the land.

BUILDING AREA -- The total area, as measured on a horizontal plane at the main grade level, of the principal building and all accessory buildings, exclusive of uncovered porches, terraces, steps and paved areas.

BUILDING HEIGHT -- The vertical distance from finished grade to the highest point of a flat roof, the upper deck line of a mansard roof, or to the mean height between the low and high points of other roof types. For purposes of this definition, "finished grade" shall be the average between the high and low grade measured five feet from the structure.

BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM -- A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows

BUILDING LINE -- The line formed by the intersection of the ground and a vertical plane that coincides with the most projected exterior surface of a building, on any side.

BUILDING, PRINCIPAL -- A building within which is conducted the principal use or activity of the lot on which said building is located.

BUILDING SUPPLY YARD -- A retail or wholesale establishment supplying building or lumber materials to contractors and the public where such materials stored, sold or displayed are located both indoors and outdoors. For the purposes of this chapter, this use shall be considered "Light Industry."

BULK REGULATIONS -- Zoning requirements related to such things as lot area and size, yard dimensions, height, percentage of lot covered and regulations other than land use. Such requirements are generally set forth in §§ 410-28 and 410-33, Schedules IA and IIA, of this chapter.

BUSINESS -- An activity, occupation, employment or enterprise which requires time, attention, labor and materials and wherein merchandise is exhibited or sold, or services offered.

CANNABIS BUSINESS, INDUSTRIAL: A cannabis related business licensed by NYSOCM to operate one of the following business types: Adult-use Cultivator, Adult-use Nursery, Adult-use Processor, Adult-use Distributor, Adult-use Cooperative, or Adult-use Microbusiness

CANNABIS BUSINESS, ON-SITE CONSUMPTION: A cannabis related business licensed by NYSOCM to operate an Adult-use On-Site Consumption business. An on-site consumption license authorizes the acquisition, possession, and sale of cannabis from the licensed premises of the on-site consumption licensee to cannabis consumers for use at the on-site consumption location.

CANNABIS BUSINESS, RETAIL: A cannabis related business licensed by NYSOCM to operate one of the following business types: Adult-use retail dispensary or Adult-use delivery.

CARPORT -- A roofed vehicle shelter with two or more open sides; an accessory building.

CATERING SERVICE -- Preparation and delivery of food and beverages exclusively for off-site service without provisions for on-site consumption by consumers.

CAUD -- Commission on Architecture and Urban Design created by Chapter 18, Art. VI. CELLAR -- An uninhabitable space partly underground but having more than half of its floor-to-ceiling height below the average outside ground level. A cellar is not counted as a story in determining buildingheight as required by §§ 410-28 and 410-33, Schedules IA and IIA. (See also "basement" and "dwelling, earth sheltered.")

CEMETERY -- A place that is established, maintained, managed, operated, or improved and which is dedicated to and used or intended to be used for the final disposition of human remains and their memorialization and in which burial plots and vaults are available for purchase by the general public. A cemetery shall be operated by a religious organization or by a not-for-profit corporation licensed by the New York State Cemetery Board. C

LUSTER DEVELOPMENT -- The subdivision of an area into lots which are smaller than would customarily be permitted by this chapter; where the density of development is no greater than would be permitted in the district by conventional development, and where the residential land produced by the smaller lot size is used for common recreation and open space.

COMMUNITY CENTER -- A cultural, educational, or religious facility designed for neighborhood-wide or City-wide use and operated on a not-for-profit basis. Examples of such facilities include, but are not limited to: museums, educational facilities, senior centers, and neighborhood community centers. See also "Educational Institution" and "Studio/ Art Gallery" as defined in this chapter.

COMMUNITY RESIDENTIAL FACILITY -- Any noninstitutional residential facility that provides a supervised residence for children or adults and which is not subject to the New York State site selection law. Such residences may provide varying degrees of assistance, ranging from full or partial supervision, counseling, meals, and other services. May include assistance of persons with developmental or physical disabilities. For the purposes of this chapter, such use shall be considered "Social Services."

COMMUNITY RESIDENTIAL FACILITY FOR THE DISABLED—A facility subject to licensing by the Office of Mental Health or the Office for People With Developmental Disabilities that provides a residence

for up to 14 individuals with mental disabilities, including residential treatment facilities for children and youth. Such facilities are subject to the New York State site selection law.

CONDOMINIUM -- A building project of individually-owned dwelling units, which may consist of one or more buildings per lot, where-in the real property title and ownership are vested in an owner having an interest with others in the common usage are-as and facilities which serve the project. Administration and maintenance of common usage areas and facilities must be provided for. For the purposes of this chapter, this definition shall include housing cooperatives.

CONFORMING BUILDING -- Any building designed or intended for a land use or activity which is permitted by right or by special permit in the district in which such building is located and which complies with all the bulk regulations of this chapter, or any amendment thereof, for such district. (See also "bulk regulations.")

CONGREGATE LIVING – A building or part thereof that contains two or more "Sleeping Units" where residents share a bathroom or kitchen, or both. Any "Dwelling Unit" containing five or more bedrooms shall be considered "Congregate Living." More than ten bedrooms or "Sleeping units" are not permitted in any such facility. Notwithstanding the above, a detached single-unit dwelling with five bedrooms shall not be considered Congregate Living.

CONSERVATION -- The continuation of land in its natural state or any use that will maintain the land in essentially its natural state.

CONSTRUCTION EQUIPMENT SALES, STORAGE, AND MAINTENANCE -- A facility that involves the offices and yard of a building trade contractor and for the storage, rental, and/or sales of heavy vehicles or construction equipment, including trucks associated with construction and the maintenance, repair, and servicing of the same. For the purposes of this chapter, such use shall be considered "General Industry."

CONTIGUOUS -- See "abuts."

CONVENIENCE STORE— A small retail facility that accommodates the shopping needs of a limited area or neighborhood by offering some or all of the following: convenience items, fresh or packaged food, prepared food, packaged alcohol, tobacco products (see § 410-24P), and lottery tickets. Such facilities are distinct from "Retail Food Sales" (as defined in this chapter) when any three of the following criteria are met:

A. The facility is under 4000 square feet;

B. The facility operates 12 or more hours per day;

C. The facility requires an Off-Premises Liquor License as defined by the New York State Liquor Authority.

D. The facility sells tobacco, vapes, and/or other smoking products.

CONVERSION -- The changing of use or occupancy by alteration, addition, or by other reorganization.

COOPERATIVE HOUSING (CO-OP)— a multi-unit residential development in which a purchaser buys shares in a corporation, and those shares are allocated to a specific dwelling unit. Ownership of the shares entitles the purchaser to a long-term proprietary lease for the unit. For the purposes of this chapter, this use shall be considered a "Condominium"

COVERAGE, BUILDING -- That percentage of a lot actually covered by the ground level area of a building and any upper floor projections where the projection is greater than five feet.

COVERAGE, LOT -- That percentage of a lot actually covered by the ground-level building area plus any structural upper floor extensions greater than five feet, plus any paved area used for parking and driveways.

CREMATORY -- A building containing facilities designed for or capable of incinerating deceased human or animal remains.

DAY CARE – A commercial or non-profit facility that is regulated and defined by the New York State Department of Social Services. A day care center.

DAY CARE, ADULT HOME—A home occupation that provides daytime care in a dwelling unit to adults whose ability to independently perform the normal activities of daily life is limited by age or physical or other impairment but who do not require the level of care provided by nursing homes or medical facilities. The dwelling unit must be owner-occupied, and care cannot be provided to more than six adults at one time.

DAY CARE, FAMILY – A home occupation that provides supervision and care for a maximum of six children younger than school age, or eight children when at least two of the eight children are school aged, for less than 24 hours per day and with no overnight care. As regulated and defined by the New York State Office of Children and Family Services.

DEPENDENT RELATIVE -- A person who, for economic or medical reasons, is dependent on another person who is related by blood, marriage or adoption.

DEVELOPMENT -- Any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of mobile buildings; streets and other paving; utilities; filling, grading, and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

DEVELOPMENTAL DISABILITY -- According to the Developmental Disabilities Act, section 102(8), the term 'developmental disability' means a severe, chronic disability of an individual 5 years of age or older that:

1. Is attributable to a mental or physical impairment or combination of mental and physical impairments;

2. Is manifested before the individual attains age 22;

3. Is likely to continue indefinitely;

4. Results in substantial functional limitations in three or more of the following areas of major life activity: self-care; receptive and expressive language; learning; mobility; self-direction; capacity for independent living; and economic self-sufficiency.

5. Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, supports, or other assistance that is of lifelong or extended duration and is individually planned and coordinated, except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.

DRIVE-THROUGH BUSINESS – A facility that allows for customers to remain in their vehicles while accessing a clerk, window, or automated machine in order to access goods or services. See also "Restaurant, Drive-Through."

DRY-CLEANING ESTABLISHMENT -- A personal service business used primarily for the purposes of picking up or dropping off clothing by customers for dry-cleaning purposes, and in which only those clothes dropped off by the customers at such an establishment and no other are dry cleaned within the premises. For the purposes of this chapter, such use shall be considered "Personal Service" when it does not exceed 4000 square feet. See also "Dry-cleaning Plant."

DRY-CLEANING PLANT -- An industrial operation in which clothing dropped off by customers at the establishment, and from other establishments, is dry cleaned within the premises. For the purposes of this

chapter, such use shall be considered "General Industry." This use is distinct from a "Laundromat" as defined in this chapter and shall not include "Dry-cleaning Establishment" that are 4,000 square feet or less.

DUST -- Solid particulate matter capable of being airborne or gasborne. DWELLING – a building that contains one or more dwelling units intended or designated to be used, rented, leased, let, or hired out to be occupied for living purposes.

DWELLING UNIT—

A. A structure, or a single unit within a structure that is distinctly separated from other living spaces within that structure which meets the following criteria:

(1) The unit provides complete, independent living facilities including permanent provisions for living, sleeping, eating, cooking, and sanitation.

(2) The unit provides an independent entrance from the exterior or from a common hall and provides free, open access to all rooms within the dwelling unit and none of the rooms is a "Sleeping Unit".

(3) Only the heads of the household enter into agreement with the lessor/mortgagor for the dwelling unit and none of the bedrooms is rented on an individual basis.

(4) The unit meets all applicable requirements of the New York State Uniform Fire Prevention and International Building Codes.

(5) The unit contains a maximum of five bedrooms and no sleeping units.

B. For purposes of this chapter a dwelling unit does not include "Congregate Living," "Overnight Lodging," or "Residential Vehicles" as defined in this chapter.

DWELLING, ACCESSORY – An accessory dwelling unit that is on the same lot, but incidental to, an owner-occupied principal dwelling unit, and not more than 50% of the gross floor area of the principal dwelling unit.

DWELLING, MANUFACTURED HOME -- A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems, and that meets the criteria set forth in 42 USC Ch. 70: Manufactured Home Construction and Safety Standards. This definition shall not include any self-propelled recreational vehicle.

DWELLING, MULTIPLE-UNIT -- One or more buildings, or portions thereof, on a single lot, containing four or more dwelling units. For purposes of this chapter, this definition includes apartments, senior housing, rental townhouses, cooperative housing and condominiums.

DWELLING, TOWNHOUSE -- A dwelling containing two or more dwelling units each located on its own individual tax parcel, each of which has one or two side walls in common with side walls of abutting dwelling units and are party or lot-line walls.

EASEMENT -- The right of a person, government agency, or public utility company to use public or private land owned by another for a specific purpose.

EATING AND DRINKING ESTABLISHMENT – A facility that prepares and sells food and beverages for on- or off-premises consumption. Such facilities may prepare and sell alcoholic beverages. This definition shall include the following uses, as defined in this chapter: "Restaurant," "Microbrewery," and "Tavern." For the purposes of this chapter, this definition shall not include "Restaurant, drive-through."

EDUCATIONAL INSTITUTION -- A building or buildings, or part thereof, whether public or private, and offering a program or curriculum which meets state requirements for kindergarten, primary, secondary or higher education

ELECTRIC VEHICLE CHARGING STATION—a public or private parking space that is served by battery charging equipment with the purpose of transferring electric energy to a battery or other energy storage device in an electric vehicle. For Electric Vehicle Charging Stations operating as a primary commercial use for retail to the public, see "VEHICLE FUEL STATION."

ESSENTIAL SERVICES (PUBLIC FACILITIES) -- The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, electric, steam, fuel orwater transmission of distribution system collection, communication, supply or disposal system, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment in connection therewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety and welfare. Telecommunications facilities and telecommunications towers are not public facilities.

EVENT VENUE– An establishment that primarily rents space in a building and/or lot for private, pre scheduled events. Such facilities are not open to the general public during events, and attendees are limited to those renting the facility and their invited guests. Examples of private events include weddings, funerals or wakes, bar or bat mitzvahs, birthday parties, conferences, or other family or community social events.

EXTRACTIVE USE -- Any operation, other than in connection with foundations for a structure, or highway construction, which involves: (1) a volume of earth movement exceeding the average of one foot per square foot of lot area, or 1,000 cubic yards, whichever is the lesser; or (2) a change of 10 feet or more in ground elevation from previously existing grade. See also "quarry, sandpit, gravel pit, topsoil stripping."

FAÇADE – The face of a building that delineates the edge of conditioned floor space.

FAMILY -- Any number of individuals living together in a single dwelling unit related by blood, marriage or adoption; or any number of individuals not related by blood, marriage or adoption living together and who meet the following criteria for a functional and factual family equivalent:

A. The occupants must share the entire dwelling unit. A unit in which the various occupants act as separate roomers cannot be deemed to be occupied by a functional family unit.

B. The household must have stability with respect to the purpose of this chapter. Evidence of such stability may include the following:

1. The presence of minor dependent children regularly residing in the household.

2. Proof of the sharing of expenses for food, rent or ownership costs, utilities and other household expenses and sharing in the preparation, storage and consumption of food.

3. Whether or not different members of the household have the same address for the purposes of:

(a) Voter registration.

(b) Drivers' licenses.

(c) Motor vehicle registration.

(d) Summer or other residences.

(e) The filing of taxes.

4. Common ownership of furniture and appliances among the members of the household.

5. Enrollment of dependent children in local schools.

6. Employment of householders within 100 miles of the City of Binghamton.

7. A showing that the household has been living together as a unit for a year or more, whether in the current dwelling unit or other dwelling units.

8. Any other factor reasonably related to whether or not the group or persons is the functional equivalent of a family.

C. A group of individuals living in the same dwelling unit shall be presumed not to be a functional family unit, as defined in this section, if such dwelling unit contains four or more college students over the age of 16 years.

1. A college student is a person who attends, at least half time, any college, university or other institution authorized to confer degrees by the State of New York.

2. For the purpose of this presumption, minor dependent children of any other member of the household shall be excluded in calculating the number of college students in the household.

D. A group of individuals living together in the same dwelling unit shall be presumed not to be a functional family unit, as defined in this section, if the dwelling unit is occupied by four or more unrelated adults over the age of 18 years and is not occupied by minor dependent children.

E. The presumptions set forth in Subsections C. and D. of this definition may be rebutted by sufficient evidence of the characteristics set forth in Subsection B. of this definition. Such evidence shall be presented as a petition to the Zoning Board of Appeals.

FAMILY DAY CARE --- See "Day Care, Family"

FLOOD -- A general and temporary condition of partial or complete inundation of normally dry areas from the overflow of inland or tidal waters, or the unusual and rapid accumulation of runoff of surface waters from any source, or mudflow, or collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood

FLOOD, 100-YEAR-- The area that will be inundated by the flood event having a 1% chance of being equaled or exceeded in any given year.

FLOOD, 500-YEAR-- The area that will be inundated by the flood event having a 0.2% chance of being equaled or exceeded in any given year.

FLOOD ELEVATION, BASE-- The elevation of surface water resulting from a flood that has a 1% chance of equaling or exceeding that level in any given year. The BFE is shown on the Flood Insurance Rate Map (FIRM) for zones AE, AH, A1–A30, AR, AR/A, AR/AE, AR/A1– A30, AR/AH, AR/AO, V1–V30 and VE.

FLOOD HAZARD BOUNDARY MAP -- Official map of a community issued by FEMA, where the boundaries of the flood, mudflow and related erosion areas having special hazards have been designated. The official map of FEMA prepared for the City of Binghamton have been delineated June 1, 1977, as noted on the map titled "Flood Hazard Boundary Map" or "Flood Insurance Rate Map."

FLOOD HAZARD AREA, SPECIAL -- An area having special flood, mudflow or flood-related erosion hazards and shown on a Flood Hazard Boundary Map (FHBM) or a Flood Insurance Rate Map (FIRM) Zone A, AO, A1-A30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/AO, AR/A1-A30, V1-V30, VE or V.

FLOOD INSURANCE RATE MAP (FIRM) -- Official map of a community on which FEMA has delineated the Special Flood Hazard Areas (SFHAs), the Base Flood Elevations (BFEs) and the risk premium zones applicable to the community.

FLOODPLAIN MANAGEMENT-- The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT AREA -- All that land adjacent to a body of water which has been or hereafter may be covered by a base flood.

FLOODPLAIN, SUBSTANTIALLY DAMAGED BUILDING-- A building that has incurred damage of any origin whereby the cost of restoring the building to its before damaged condition would equal or exceed 50% of the market value of the building before the damage occurred.

FLOODPLAIN, SUBSTANTIALLY IMPROVED BUILDING—

A. A building that has undergone reconstruction, rehabilitation, addition, or other improvement, the cost of which equals or exceeds 50% of the market value of the building before the "start of construction" of the improvement. This term does not include a building that has undergone reconstruction, rehabilitation, addition, or other improvement related to:

1. Any project or improvement of a building to correct existing violations of a state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

2. Any alteration of a "historic building", provided that the alteration will not preclude the structure's continued designation as a "historic building".

FLOODPLAIN, SUBSTANTIALLY IMPROVED PROPERTY-- Either a substantially improved building or the contents within a substantially improved building, or both.

FLOODPROOFING -- Any combination of structural and nonstructural additions, changes or adjustments to structures, which reduces or eliminates flood damage to real estate or improved real property, water and sanitary facilities, structures with their contents.

FLOOR AREA, GROSS -- The floor area within the inside perimeter of the exterior walls of the building, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls, shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.

FLOOR AREA RATIO -- The numerical value obtained by dividing the total floor area of the building or buildings on the lot by the area of such lot. When applicable, the floor area ratio designated for any district, when multiplied by the lot area in square feet, shall determine the maximum permissible total floor area of the building or buildings on the lot in such district.

FRONTAGE -- The greater of:

A. The distance between side lot lines measured along the street right-of-way line; or

B. A line parallel to the street right-of-way line at the distance specified for front yard depth.

FUNERAL HOME -- A building used for the preparation of the deceased for burial or cremation, which may also include facilities for the display of the deceased and ceremonies connected therewith before burial or cremation. (See also "crematory.")

GARAGE, PRIVATE RESIDENTIAL -- An accessory building, or part of a principal building if attached thereto by a wall or roof, intended primarily for the storage of one or more motor vehicles owned and used by the occupant of the dwelling to which it is accessory or attached.

GARAGE SALE -- Household goods and clothing for sale to the general public, which are displayed in the garage, yard or porch of a private residence; a yard, porch, lawn or rummage sale. Garage sales shall not last for more than 3 consecutive days, and shall not be held more than once every 3 months.

GARAGE, STORAGE OR OFF-STREET PARKING -- A building or portion thereof, or land, used exclusively for the temporary storage of motor vehicles, and where motor fuel is not sold and vehicles are not equipped, repaired, hired or sold.

GARDEN, COMMUNITY OR NEIGHBORHOOD -- An area used by several individuals or families, operating in association with each other and under sponsorship by a nonprofit or voluntary organization, for seasonal production of vegetables and other garden produce for home consumption by the individuals or families directly engaged in such production.

GENERAL RETAIL– A facility involved in the sale, lease, or rental of new or used products, not including vehicle sales/rental or food sales.

GOLF COURSE -- A recreational facility consisting of at least nine holes, each with tee and green, located on a parcel of land containing at least 15 acres, as distinguished from golf driving ranges and miniature golf courses.

GRADE, ESTABLISHED STREET -- The permanently established elevation of the center line of a street in front of the midpoint of a lot.

GRADE, FINISHED -- The finished grade at any point along the wall of a building shall be the elevation of the completed surfaces of lawns, walks, and roads adjoining the wall at that point.

GREENHOUSE/NURSERY -- Any land and related buildings or structures in which trees, shrubs, flowers and other plants are cultivated for the purposes of being sold commercially.

GREENROOF, VEGETATED ROOFTOP -- A layer of planting medium and vegetation, with a waterproof membrane and drainage system, integrated into the roof of a building in order to capture rainwater, reduce building energy consumption, and/or provide habitat or recreational amenity.

GREEN SPACE -- That portion of any lot treated in such a manner as to provide light, air, and landscaped open space for the recreational and visual enjoyment of the occupants of any building on said lot. Green space may include lawns, trees, shrubbery, garden areas, footpaths, play areas, fountains, pools, watercourses, and wooded areas, but shall not include required parking spaces and service areas or vehicular surfaces other than access drives which are not used for vehicular parking.

GROSS DENSITY -- The total number of persons or objects per unit of land area. "Land area" means all the land within the lot or area boundaries, including private roads, recreation areas, easements and natural features.

GROUND-MOUNTED SOLAR ENERGY SYSTEM -- A Solar Energy System that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure for the primary purpose of producing electricity for onsite consumption.

HOME OCCUPATION -- A business, profession, occupation, or trade conducted by the occupant of a dwelling or accessory structure and which is clearly incidental and secondary to the use of the residence. See § 410-19H

HOSPITAL, MEDICAL CENTER -- A facility serving the comprehensive (preventative and illness-related) health needs of the community and region and providing health services, medical and surgical care to persons suffering from illness, disease, injury, abnormal physical or mental conditions or pregnancy. Services provided by the facility will include diagnosis, treatment, rehabilitation, research, education, health promotion and wellness. Such a facility may include diagnostic/research laboratories, emergency service, outpatient service, space and equipment for training and housing interns, nurses, medical technicians and other related

personnel, professional medical offices, overnight accommodations for patients' relatives, child care, administrative offices and businesses related to the hospital function and not the public in general.

HOTEL -- See “Overnight Lodging.”

HOUSING -- See "dwelling."

HUMAN SERVICE AGENCY -- An organization providing assistance to people in obtaining services to meet their needs. Services provided may include, but are not limited to, one or more of the following: information, guidance, counseling, therapy, group social activity, remedial instruction, self-help, and support. Services may not include the provision of alcohol. For the purposes of this chapter, such use shall be considered “Social Services.”

IMPERVIOUS SURFACE -- Any surface from which most water runs off, including, but not limited to, paved streets, graveled or paved areas such as driveways, parking areas, packed earth material, walkways, roof surfaces, and patios.

INDUSTRIAL PARK -- A tract of land that is planned, developed and operated as an integral facility for a number of individual industrial uses

INDUSTRY, GENERAL – A facility involved in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or other industrial activities or facilities that produce smoke, odor, noise, glare, fumes, gas, vibration, threat of fire or explosion, emission of particulate matter, interference with radio, television reception or radiation.

INDUSTRY, LIGHT – A facility engaged the warehousing, manufacturing, assembly, repair or servicing of industrial, business, or consumer machinery, equipment, products, or by-products. Light industrial uses will generate minimal increases in traffic, emissions, noise, odors or vibrations and have minimal visual impact on an area.

JUNKYARD -- A lot, with or without buildings, used for the collecting, dismantling, storage, salvaging, or sale of wastepaper, rags, scrap metal, junked automobiles, materials, equipment, machinery or vehicles or parts thereof. The deposit or storage of two or more wrecked or broken motor vehicles, which would not qualify for inspection by the State of New York, or the major parts of two or more such vehicles shall be deemed to make the lot a junkyard; an auto salvage yard.

KENNEL, COMMERCIAL -- Any lot or premises, or portion thereof, on which four or more domestic animals are kept for sale, or on which more than two such animals are boarded for compensation. For the purposes of this chapter, such use shall be considered “Animal Care.”

KENNEL, RESIDENTIAL -- The raising of up to three (3) domestic animals for private use only. No sales or breeding of the animals is permitted. Animals kept on the property shall be owned by the occupant of the property. See § 410-19C.

LANDSCAPED AREA -- An area of grass, trees, shrubs or other natural greenery, or containing any form of landscaping or architectural treatment.

LAND USE ACTIVITY -- The specific purpose for which land or a building is used or designed or intended to be used and maintained. (See also "use, principal.")

LARGE-SCALE SOLAR ENERGY SYSTEM -- A Solar Energy System that is ground-mounted and produces energy primarily for the purpose of offsite sale or consumption.

LAUNDROMAT -- A business that provides coin-operated self-service-type washing, drying, and ironing equipment, provided that no pick-up or delivery service is maintained. For the purposes of this chapter, such use shall be considered “Personal Service.”

LEAD AGENCY -- The agency which has responsibility to coordinate the environmental review of a proposed action in accordance with the New York State Environmental Quality Review Act and the regulations of the City of Binghamton.

LOADING SPACE -- Any off-street space available for the loading or unloading of goods. See Article X for dimensional requirements.

LOT -- A single tax parcel either vacant or occupied intended as a unit for the purpose, whether immediate or for the future, for transfer of ownership, or possession, or for development.

LOT AREA -- Lot area is the area included within the rear, side, and front lot lines. Lot area does not include existing or proposed right-of-way, whether dedicated or not dedicated to public use.

LOT, CORNER -- A lot fronting on two or more streets at their intersection. Both street lines shall be deemed front lot lines and both frontages shall be considered front yards.

LOT COVERAGE -- The percentage of the lot covered by the ground level area plus any structural upper floor extensions greater than five feet, plus any impervious area used for parking and driveways. In any non residential zoning district, the area of any structure or building covered with a vegetated greenroof, as defined in this chapter, shall not count towards the calculation of the total lot coverage.

LOT DEPTH -- The average horizontal distance between the front and rear lot lines.

LOT WIDTH -- Lot width is the distance between the two side lot lines measured at the primary street property line along a straight line or along the chord of the property line on a curvilinear lot.

LOT, FLAG -- A lot that meets the minimum area requirements of this chapter and is connected to a public right-of-way by a strip of land at least 20 feet wide and containing an access drive.

LOT, INTERIOR -- A lot other than a corner lot.

LOT LINE, FRONT -- In the case of a lot abutting only one street, it is the line separating the lot from the street; in the case of any other lot, the owner shall, for the purpose of this chapter, have the privilege of electing any street right-of-way line as the front lot line.

LOT LINE, INTERIOR -- A lot line which does not abut a street.

LOT LINE, REAR -- The lot line which is generally opposite the front lot line. If the lot comes to a point at the rear, the rear lot line shall be deemed to be the point of intersection of the side lot lines. Rear yard measurements shall be made from such point.

LOT LINES -- The property lines bounding a lot as defined herein.

LOT LINE, SIDE -- The property line or lines extending from the front lot line to the rear lot line.

LOT, THROUGH -- A lot having frontage on two parallel or approximately parallel streets. Both street lines shall be deemed front lot lines.

LOT WIDTH -- The average horizontal distance between the side lot lines, measured parallel to the front lot line. See also § 410-12D.

LOT OF RECORD -- A platted parcel of land, the dimensions of which are shown on a document or map on file with the City Assessor's Office and which parcel of land actually exists as so shown. In no case shall a portion of an original platted lot constitute a lot of record.

MAIN BUILDING FACADE -- That portion of a building which is parallel or nearly parallel to the abutting street. For buildings which front on two or more streets, the main building facade shall contain the main entrance to such building.

MARQUEE -- A permanent structure overhanging a walkway attached to or supported by a building advertising an event to be shown at the property.

MAUSOLEUM -- A building for interring human or animal remains above ground.

MEDICAL OFFICE—A facility that provides medical or surgical care to patients. Some uses may offer overnight care. Examples of such facilities include, but are not limited to: urgent care or emergency medical office; medical or dental office; diagnostic or treatment center; medical clinic, and therapeutic massage. Does not include "hospital, medical center" as defined in this chapter.

MENTALLY ILL -- affliction with a mental disease or mental condition which is manifested by a disorder or disturbance in behavior, feeling, thinking, or judgment to such an extent that the person afflicted requires care, treatment and rehabilitation.

METHADONE FACILITY -- A facility licensed by the appropriate government agencies to use the drug methadone in the treatment, maintenance, or detoxification of persons. For the purposes of this chapter, such use shall be considered "Social Services."

MICROBREWERY – An establishment which brews or produces beer in volumes up to 60,000 barrels annually. This definition shall also include liquor distillation of up to 75,000 gallons annually. Such establishments may offer limited retail sales and generally have a restaurant in or adjacent to the establishment. For the purposes of this chapter, such use shall be considered an "Eating and Drinking Establishment." See also "Brewery/ Distillery."

MISSION/HOMELESS SHELTER -- A nonprofit, charitable or religious organization providing boarding and/or lodging and ancillary services on its premises to primarily indigent, needy, homeless or transient persons.

NEW CONSTRUCTION -- Construction on a parcel of land which has been completely cleared of previous construction or upon which no construction has previously occurred. An addition to an existing structure, whether attached or detached, shall be considered to be new construction; the restoration or remodeling of an existing structure shall not be considered new construction.

NONCONFORMING LOT -- A lot of record existing on the date of enactment of this chapter, or amendments thereto, which does not comply with the minimum frontage or area requirements for the zone in which it is located.

NONCONFORMING USE OR ACTIVITY -- A building or use of land existing on the date of enactment of this chapter, or amendments thereto, which does not comply with the permitted use, setback, height, yard or other regulations of the zone in which said building or use is located.

NOXIOUS MATTER OR MATERIAL -- A material which is capable of causing injury to living organisms by chemical reaction, or is capable of causing detrimental effects to the physical or economic well-being of individuals. NUISANCE -- An actionable activity arising from a use of land, producing a material annoyance, inconvenience, and/or discomfort to the detriment of the public health, safety, and/or welfare.

NURSING HOME -- Any licensed establishment where aged or infirm persons are provided with shelter, food and health care, on a twenty-four-hour basis, for compensation; corresponds to the New York State definition of "self-care or extended-care nursing home." This definition does not include licensed care in private homes.

OFFICE – A facility that focuses on business, professional or financial activities conducted in an office setting. This definition shall include "Bank and Financial Institutions" as defined in this chapter.

OVERNIGHT LODGING – A facility providing overnight accommodations arranged for short term stays of less than 21 days; guest rooms are rented on an overnight basis. Examples of such facilities include, but are not limited to: bed-and-breakfast; hospitality house; and hotel or motel. Overnight lodging facilities may include internal eating and drinking establishments. Any additional services provided at the facility to the

public at-large shall be considered a separate land use under this chapter. For the purposes of this chapter, this definition shall not include "Bed-and-breakfast Home."

PARISH HOUSE -- The residence of the clergy associated with a place of worship.

PARKING, ANCILLARY -- A parking area which is ancillary to the principal use not situated on the same lot as such parking area, which is not operated as a separate commercial enterprise available to the public at large and which is created to provide part of the required parking for the principal use.

PARKING, COMMERCIAL – A facility that provides parking as a principal use, for which a fee may or may not be charged. Includes surface parking lots and structured parking facilities open to the public. This shall not include parking facilities owned or operated by the municipality.

PARKING SPACE, OFF-STREET -- A paved or surfaced space available for the parking of one motor vehicle on a transient basis and not located on an existing street or street right-of-way. (See Article X.)

PARK, PLAYGROUND and PLAYING FIELD -- A tract of land designated and used by the public for active and passive recreation.

PARTY WALL -- A common wall which extends from its footing below grade to, or through, the roof and divides two buildings.

PAWNSHOP/SWAP SHOP -- An establishment in which the proprietor trades merchandise or lends money on the security of personal property pledged in his or her keeping. Requires a license from the City of Binghamton. See also Chapter 275, Licenses and Permits, Article II, Collateral Loan Brokers.

PERFORMANCE STANDARDS –

A. A set of criteria and measurements which: A. Establishes environmental controls by which proposed land uses and activities can be evaluated and which helps to encourage positive or neutral impacts on the community.

B. Controls smoke and particulate matter, noise, odor, toxic or noxious matter, vibration, fire and explosion hazard, glare or heat, or radiation hazard generated by or inherent in certain uses of land or buildings.

PERSONAL SERVICE – A facility engaged in providing service involving the care of a person or personal items. Examples of such facilities include, but are not limited to: barbershop; beauty parlor; catering service; dry-cleaning establishment (less than 4000 square feet); laundromat; photocopy and related printing service; tattoo parlor; tailor; etc.

PLACE OF PUBLIC ASSEMBLY -- All buildings or portions thereof, the spaces used or intended to be used for gathering together 50 or more persons for amusement, athletic, civic, dining, educational, entertainment, patriotic, political, recreational, religious, social or similar purposes.

PLACE OF WORSHIP -- A building or area owned and/or used by a religious organization for worship, training, or education.

PORCH/DECK -- A structure, projecting out from or attached to the exterior wall of a principal building or structure, which may or may not have a roof but is often open to the weather.

PRESCHOOL/ DAY-CARE CENTER -- See "Day Care."

QUARRY, SAND PIT, GRAVEL PIT, TOPSOIL STRIPPING -- A lot or land or part thereof, used for the purpose of extracting stone, sand, gravel, topsoil and similar material as an individual or commercial operation, and exclusive of the process of excavation and grading in preparation for the construction of a duly authorized building, parking area or roadway. (See also "extractive use.")

RAILROAD RIGHT-OF-WAY -- All of any area of land containing railroad tracks, sidings, car yards, classification yards and auxiliary facilities used or available to be used for train operations.

RECOVERY HOME -- See "community residential facility."

RECREATION, INDOOR – A facility providing daily or regular scheduled recreation-oriented activities in an indoor setting. Examples of such facilities include, but are not limited to: amusement arcade, billiard hall; bowling alley; concert venue; dance or music studio; health club; indoor rifle/pistol ranges; movie theater; personal instruction/ training; and skating rink. See also "Recreation, Outdoor."

RECREATION OUTDOOR -- Land or facilities providing daily or regular scheduled recreation-oriented activities in an outdoor setting. Examples of such facilities include, but are not limited to: golf course or driving range; sports or athletic fields and stadiums; and boating or similar water-oriented uses. Does not include outdoor or drive-in theaters or automobile or animal racing tracks. See also "Recreation, Indoor."

RECREATION VEHICLES -- Vehicles that can be used for recreation, such as boats, motor homes, all other types of campers, all-terrain vehicles, snow mobiles, and personal watercraft.

RESIDENTIAL STORAGE SHED -- Any structure utilized for the storage of residential household equipment. See also § 410-19.

RESIDENTIAL VEHICLES -- All passenger vehicles used on a normal day-to-day basis for personal activity. Residential vehicles shall not include construction vehicles, nonresidential trailers, dump trucks, paneled trucks, semi-trucks, tractor-trailers, excavation equipment, tow trucks, job trailers, front-end loaders, bulldozers, construction compressors or any other similar vehicle.

RESPITE CARE -- Short-term care for members of the general public whose ability to independently perform the normal activities of daily life is limited by age or physical or other impairment.

RESEARCH AND DEVELOPMENT –A facility involved primarily in the research and development of new products.

RESTAURANT, DRIVE-THROUGH -- A use which, by design of facilities or procedures, encourages or permits customers to receive food service or products while remaining in their vehicle. A drive-through establishment may be either a primary or accessory use. For the purposes of this chapter, such use shall be considered a "Drive-through Business."

RESTAURANT -- An establishment where food is prepared and served to customers who are seated principally at tables and where any bar area does not remain open for alcohol consumption after food service has closed. Such facilities may also offer delivery and takeout services. For the purposes of this chapter, such use shall be considered an "Eating and Drinking Establishment."

RETAIL FOOD SALES – A retail facility established to accommodate the food shopping needs of a neighborhood and providing basic commodities such as fresh food, groceries, packaged food, produce, and a limited menu of prepared food for takeout. Examples of such facilities include, but are not limited to: butcher, delicatessen, specialty food store, grocery store, health food store, and retail bakery. This definition is distinct from "Convenience Store" and "Eating and Drinking Establishment" as defined in this chapter.

RETAIL, GENERAL—See "General Retail"

RINGLEMANN CHART -- A chart described in the United States Bureau of Mines Information Circular 6888 or its successor, and on which are illustrated graduated shades of gray for use in estimating the light obscuring capacity of smoke.

RINGLEMANN NUMBER -- The number appearing on the Ringlemann Chart ascribed by the observer to the density of the smoke emission. Where the density of the light-obstructing capacity of the smoke as observed falls between two consecutive Ringlemann numbers, the lowest number shall be considered the density of the smoke observed.

ROOF-MOUNTED SOLAR ENERGY SYSTEM -- A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for onsite or offsite consumption.

SELF-SERVICE STORAGE WAREHOUSE -- Any building or group of buildings comprised of one or more individual storage compartments, which are rented or leased to individuals or businesses for storage of nonhazardous materials, personal property and equipment.

SENIOR HOUSING – A dwelling unit that is or will be restricted, pursuant to a regulatory agreement, to occupancy by a household that contains at least one (1) person aged 55 or older.

SETBACK -- The required minimum horizontal distance between the lot or property line and the nearest front, side, or rear line of the building, including terraces or any covered projection thereof, excluding steps.

SIGN -- Any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixture, colors, illumination or projected images. "Sign" does not include the flag of any nation, state or city, or fraternal, religious or civic organizations. "Sign" does not include merchandise, pictures or models of products or services incorporated in a window display, works of art which in no way identify a product or scoreboard located on an athletic field.

SITE PLAN -- A rendering, drawing or sketch prepared to specifications and containing necessary elements, as set forth in Article IX of this chapter, which shows the arrangement, layout and design of the proposed use as shown on said plan. A detailed site plan shall be submitted with each application for a permit. The site plan must include but is not limited to: all buildings, structures, and appurtenances on site and their use or function; all uses adjacent to the property lines of the site; the locations of all storm drain openings, adjacent waterways or wetlands; information regarding slope, natural drainage, curbing, impounding and how a spill will be retained upon the site property; and the scale of the site plan.

SITE SELECTION LAW (PADAVAN BILL) -- State legislation designed to set out procedures superseding local zoning ordinances for the site selection of certain types of community residence (group home) facilities in municipalities. The procedure involves the sponsoring agency notifying the chief executive officer of the municipality where the proposed residence is to be located and giving the officer the opportunity to comment on the proposal. Once a residence has successfully completed the site selection process, it is considered a family unit and is subject only to the regulations in this chapter governing those units. Those community residences governed by the site selection law are noted in this chapter. Other residences not subject to this law must comply with the special conditions associated with their use.

SLEEPING UNIT – A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms may have a lockable door and be rented, let or leased on an individual basis. Structures, or single units within a structure that contain sleeping units are not “Dwelling Units”.

SMOKE OR VAPE SHOP -- A retail establishment primarily engaged in the sale of smoking and vaping products and related paraphernalia. This includes items like cigarettes, cigars, e-cigarettes, pipes, hookahs, bongs, tobacco, vape cartridges, and chewing tobacco. A business is classified as a smoke shop if more than 25% of its floor space is dedicated to these products.

SOCIAL SERVICES – Organizations that provide support services for specific populations or the community at large. Also includes facilities that provide transient housing related to social service programs. This definition shall include the following uses, as defined in this chapter: “Alcohol or drug rehabilitation facility,” “Community Residential Facility,” “Human Service Agency,” and “Methadone Facility.”

SOLAR ACCESS -- A property owner's right to have sunlight shine on his or her property.

SOLAR ENERGY EQUIPMENT -- Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy.

SOLAR ENERGY SYSTEM -- An electrical generating system composed of a combination of both “Solar Panels” and “Solar Energy Equipment” as defined in this chapter.

SOLAR PANEL -- A photovoltaic device capable of collecting and converting solar energy into electrical energy.

SPECIAL CONDITION -- A use which will be permitted in a particular zoning district only when it is determined that any conditions or standards which may be applied to such use have been met. (See §§ 410-29 and 410-34.)

SPECIAL USE PERMIT -- Permit required for land uses and activities that are likely to have a broad and significant impact on the physical, environmental, social or economic character of the surrounding neighborhood and the City. Review of, and decision on, any special use permit shall be made by the Planning Commission.

SPECIFIC ANATOMICAL AREAS -- Less than completely and opaquely covered human genitals or pubic region; buttock; or female breast below a point immediately above the top of the areola; and human male genitals in discernibly turgid state, even if completely and opaquely covered.

SPECIFIC SEXUAL ACTIVITIES -- Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse, or sodomy; fondling or other erotic touching of human genitals or pubic region, buttocks or female breast.

SPONSORING AGENCY -- A person, nonprofit agency or governmental unit that plans to establish a residential facility to care for mentally ill, retarded or developmentally disabled persons or persons with alcohol and substance abuse problems.

STORAGE, OUTDOOR -- Land outside any building or roofed area used for the keeping of goods, supplies, raw materials or finished products.

STREET -- An existing federal, state, county, or City highway, road or street, or a way shown upon a subdivision plat approved by the City Planning Commission, or on a plat duly filed and recorded in the office of the County Clerk prior to the appointment of the City Planning Commission and the grant to such Commission of the power to approve subdivision plats.

STREET FRONTAGE -- See "frontage."

STREET LINE -- The right-of-way line separating the street area from abutting property.

STRUCTURE -- A building or anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

STRUCTURE ALTERATION -- See "alterations."

STUDIO/ ART GALLERY -- The workshop and/or gallery of an artist, sculptor, or photographer. Such use may be open to the public and include sales.

STUDIO/EFFICIENCY APARTMENT -- A one-bedroom efficiency dwelling used as a single housekeeping unit, containing complete kitchen, bathroom, and toilet facilities.

SUBDIVISION -- The division of any parcel of land into four or more lots, plots, sites, or other divisions of land for immediate or future sale or for building development with or without streets or highways, and including resubdivision; a redivision of a lot, tract or parcel of land by any means, including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs of devisees, transfers of ownership or building or lot development.

SUPERMARKET -- See “Retail Food Sales”

SWIMMING POOL, PRIVATE -- Any body of water or receptacle for water having a depth at any point greater than two feet, constructed, installed or maintained in or above ground, outside a residential building as an accessory use to a residence for swimming or bathing by the occupants thereof and guests.

TAVERN -- An establishment where alcoholic beverages are sold to be consumed on the premises, but not including restaurants where the principal business is the serving of food, that may or may not have live entertainment. Such establishments may contain a stage, staging area and/or designated dance floor. For the purposes of this chapter, such use shall be considered an "Eating and Drinking Establishment."

TELECOMMUNICATIONS FACILITY -- See § 410-42.

TEMPORARY STRUCTURE -- Any structure which is erected to be in place for not more than six months, including but not limited to tents, portable bandstands, reviewing stands, bleachers, mobile office units, construction sheds, sales offices for lots or dwellings, or other structures of a similar character. Human occupancy of temporary structures is not permitted.

TERRACE -- An uncovered flat platform of earth with or without a surface material or retaining walls.

TOWNHOUSE -- A one-unit dwelling constructed in a group of two or more attached units, each on its own lot, in which each unit extends from foundation to roof.

TRANSIENT RESIDENT -- A person who pays for sleeping accommodations in a commercial, profit making hotel, motel or tourist home for a period of seven or fewer consecutive nights; a transient guest.

TRANSPORTATION SERVICE – A facility that offers services related to personal transportation needs. Such facilities may have an office or dispatch center, have open or enclosed vehicle storage, have passenger terminals, and offer sales of transportation tickets. Such facilities may conduct repairs of service vehicles and offer incidental retail sales of food or beverages.

UNREGISTERED AND/OR UNLICENSED VEHICLES -- Any vehicle, including a tractor and/or trailer, without a currently valid license plate or plates or which is in either a wrecked, discarded, dismantled, inoperative or abandoned condition and is not in a condition where it may be used on a public highway. An expired inspection sticker or lack of current inspection sticker shall be presumptive evidence that a vehicle is not in a condition capable of being used on a public highway. Vehicles capable of being driven on a public highway and offered for sale by an automobile dealer duly licensed or not licensed by the New York State Department of Motor Vehicles to sell automobiles shall not be considered "unregistered and/or unlicensed vehicles" when offered for sale at the dealer's place of business as stated in its application for an automobile dealer's license to the Commissioner of Motor Vehicles.

USE, NONCONFORMING -- See "nonconforming use or activity."

USE, PRINCIPAL -- The primary or principal purpose for which land, water, or a building is designed, arranged or intended to be used, or for which it is or may be occupied or maintained; land use or activity.

VARIANCE, AREA -- Zoning Board of Appeals authorization of a deviation(s) from restrictions concerning the dimensional or physical requirements of applicable zoning regulations and/or upon construction and placement of buildings and/or structures which are employed to serve a permitted statutory use.

VARIANCE, USE -- Zoning Board of Appeals authorization of a departure from the literal requirement(s) of this chapter in utilization of land for a purpose prohibited herein.

VEHICLE FUEL STATION -- .Any commercial establishment dispensing motor vehicle fuel including, but not limited to, gasoline, diesel fuel, Gasohol, hydrogen, compressed natural gas, electricity or any combination thereof, from underground storage tanks, pipes, compressors, batteries or electrical transmission facilities into vehicles. Vehicle fuel stations shall not include sale or storage of automobiles or trailers, new or used.

VEHICLE IMPOUND YARD -- Any lot or piece of land, including buildings, at which registered motor vehicles are impounded awaiting reclamation by their owners or transfers of vehicle title resulting from failure

of reclamation by the owners. This term shall not include any vehicle dismantling or scrap metal processing and shall be distinguished from "junkyard" and "off-street parking garage." For the purposes of this chapter, this shall use shall be considered “General Industry.”

VEHICLE REPAIR/SERVICE – A facility involved in the repair and service of passenger vehicles, light and medium trucks and other consumer vehicles such as motorcycles, boats and recreation vehicles. Examples of such facilities include, but are not limited to: vehicle detailing business; vehicle service station; and vehicle washing. This use shall not involve the repair or servicing of commercial vehicles or heavy vehicles/equipment, which shall be considered “Light Industry.”

VEHICLE SALES/RENTAL– A facility involved in the sales, rental or leasing of new or used passenger vehicles, light and medium trucks, and other consumer vehicles such as motorcycles, boats and recreation vehicles.

VEHICLE SALVAGE FACILITY -- A building in which motor vehicles or parts thereof are dismantled in accordance with state regulations and licensing. This term shall not include dismantling conducted outdoors, with the exception of fuel tank removal as may be required by applicable fire safety regulations, nor shall this term include the outside storage of unregistered motor vehicles, motor vehicle hulks or parts, or other junk or discarded material. This term shall be distinct from the term "junkyard." The facility must be licensed by New York State Department of Motor Vehicles. For the purposes of this chapter, this shall use shall be considered “General Industry.”

VISION CLEARANCE TRIANGLE -- An area at street intersections which is to be kept free from visual obstructions so as to promote the safe movement of vehicular traffic. (See also § 410-17A.)

WAREHOUSE AND DISTRIBUTION – A facility involved in the storage or movement of goods for themselves or other firms/companies.

WASTE-RELATED SERVICES – Characterized by uses that receive solid or liquid wastes or recycle materials (e.g. glass, plastic or paper products) from others for transfer to another location and uses that collect sanitary wastes or that manufacture or produce goods or energy from the composting of organic material. This definition shall not include “Junkyard.”

YARD -- An open area on a lot which is open to the sky and is unoccupied by any land use or activity except as may otherwise be provided in this chapter.

YARD, FRONT -- A yard extending across the entire width of the lot between the front lot line and the front yard line.

YARD LINE -- An imaginary line which is parallel to the lot line along which a required yard must extend and which is not nearer to said lot line than the required minimum yard width or depth as set forth in this chapter.

YARD, REAR -- A yard extending across the full width of the lot between the rear yard line and the rear lot line.

YARD, SIDE -- A yard extending from the front yard to the rear yard and between the side yard line and the side lot line.

ZONING MAP -- The map or maps that are part of this chapter as set forth in Article III.

ZOO/AQUARIUM -- An establishment that displays living animals or plants to the public, usually for a fee.

ARTICLE III, Zoning Map; Types of Districts

§ 410-6. Zoning district map. [Amended 12-19-11 by LL. No. 11-005]

Zoning districts are bounded and defined as shown on the map entitled "Zoning Map, City of Binghamton, New York," dated March 2008, which map, and all amendments thereto, is adopted as part of this chapter and which, with all explanatory matter and dimensions thereon, is hereby made a part of this chapter and included herein.

§ 410-7. Certification and inspection of map.

The original of the Zoning Map, City of Binghamton, New York, dated, March 2008, shall be certified by the Director of the Planning Department. All changes and amendments to said map shall be promptly made by the Planning Department staff as directed by the City Council. The original of such Zoning Map and all amendments thereto shall remain on file in the Planning Department. Copies of the map shall be on file in the Office of the City Engineer, the Office of Building and Construction, and the Office of the City Clerk and shall be made available for public inspection and use during City office hours.

§ 410-8. Establishment of boundaries.

The following principles are intended to apply to the location of zoning district boundaries:

A. Boundary lines are intended to follow lot lines or the center line of streets, highways, alleys, railroads, watercourses or easements, or such lines as they may be extended, or to be parallel or perpendicular thereto, unless such boundary lines are otherwise fixed by dimensions, as shown on the Zoning Map.

B. Where a boundary is indicated as approximately following the edge of a river, pond or similar public water body, the mean high water line thereof shall be construed to be such boundary.

C. Where a boundary is indicated as approximately following a lot line or an extension thereof, such lot line or extension shall be construed to be such boundary.

D. Questions or disagreements concerning the exact location of a district boundary line shall be resolved by the Zoning Board of Appeals. (See Article XIV.)

§ 410-9. Annexed land.

Any land added to the incorporation area of the City of Binghamton by annexation shall be automatically classified in the R-1 Residential Single-Unit Dwelling District for zoning purposes pending adoption of a permanent zoning district designation.

§ 410-10. Types of districts. [Amended 12-19-11 by LL. No. 11.005]

The following types of zoning districts are hereby created and established in the City of Binghamton for the intent and purpose described below:

A. R-1 Residential Single-Unit Dwelling District. The intent of the R-1 Residential Single-Unit Dwelling District is to designate areas where low-density, one-unit dwellings constitute the existing and desired future developmental character and where substantial restriction on the use of land and the density of development is necessary to preserve present character and protect the economic value of existing and future investment. Development which occurs in the R-1 Residential Single-Unit Dwelling District should be comparable with existing population density and the environmental character of the surrounding area.

B. R-2 Residential One- and Two-Unit Dwelling District. The intent of the R-2 Residential One- and Two-Unit Dwelling District is to designate areas where a mixture of one-unit dwellings, two-unit dwellings, and townhouses creates a low to moderate population density. Restrictions on the intensity and type of residential and nonresidential development are necessary to preserve the desirable residential qualities of neighborhoods, to prevent overcrowding, and to reduce traffic congestion on

existing streets. In some locations, the absence of appropriate utilities and access roads or extreme topographic conditions may restrict the intensity or type of development.

C. R-3 Residential Multi-Unit Dwelling District. The intent of the R-3 Residential Multi-Unit Dwelling District is to designate those areas where multiple-unit housing predominates and where a broad range of available housing options and a moderate to high population density is the existing and desired future developmental character. Development restrictions will be aimed at achieving the highest concentration of population and the broadest range of housing opportunities in the City while improving land use efficiency, safety and environmental quality.

D. C-1 Service Commercial District. The intent of the C-1 Service Commercial District is to designate those areas where a concentrated mixture of commercial service, storage and light industrial processing activities, of City-wide or regional significance, is to be found. Restrictions and development standards are aimed at accommodating a variety of such commercial service uses while improving land use efficiency, safety, and environmental quality, particularly adjacent to residential areas and important natural features.

E. C-2 Downtown Business District. The intent of the C-2 Downtown Business District is to designate those areas where large retail stores, specialty shops and services, business services, financial institutions, offices, theaters, hotels, government buildings, and sports and entertainment facilities, which have primarily City-wide and regional significance, will be permitted at a relatively high level of development intensity. It is further intended that zoning regulations recognize, preserve, and promote the historic importance of large portions of the C-2 District and reflect the viability and desirability of downtown residential development.

F. C-3 Medical District. The intent of the C-3 Medical District is to designate those areas where medical services and facilities have developed within existing residential neighborhoods and where the continued availability of such services is desired. Restrictions and controls are aimed at promoting development which will be commensurate with the services needed but will not be detrimental to the character of adjacent residential neighborhoods.

G. C-4 Neighborhood Commercial District. The intent of the C-4 Neighborhood Commercial District is to designate those areas where general retail, service, and office activities provide convenience goods and service to several surrounding neighborhoods but not usually on a City-wide or regional scale. Nonresidential land uses have mixed with, and often superseded, residential development. Restrictions which discourage encroachment of nonresidential activities into adjacent residential areas and gradually improve traffic safety, land use efficiency, and visual quality will be in the best interest of the community.

H. C-5 Neighborhood Office District. The intent of the C-5 Neighborhood Office District is to designate those areas where professional offices and specialized commercial, personal service, civic, and cultural activities of City-wide and regional significance will be encouraged as alternative uses of existing large residential structures. Land use restrictions are aimed at preserving the architectural and historical character and visual quality of existing development while providing for compatible, efficient, and more intensive use of land and structures for housing and office purposes.

I. C-6 Limited Neighborhood Commercial District. The intent of the C-6 Limited Neighborhood Commercial District is to designate those areas where small-scale, commercial establishments coexist with residential neighborhoods for the purpose of providing adjacent residents with convenience goods and personal services. Restrictions and controls are aimed at limiting the size and range of permitted uses, assuring compatibility, and limiting further expansion of such districts into surrounding residential areas.

J. I-1 Urban Business Park District. The intent of the I-1 Urban Business Park District is to designate those areas which are appropriate for technology-based business and industrial uses. Regulations such as design standards will be used to manage the scale and character of development.

K. I-2 Light and Medium Industrial District. The intent of the I-2 Light and Medium Industrial District is to designate those areas which are suitable for light- and medium-density industrial development. Regulations such as performance standards will mitigate the negative impacts of traffic, noise, smoke, odor, and other potential nuisances while preserving the character of existing adjacent residential districts. It is intended that the industrial character of the land in this district be preserved by restricting incompatible uses.

L. I-3 Heavy Industrial District. The intent of the I-3 Heavy Industrial District is to designate those areas which are suitable for heavy industrial uses. Like the I-2 District, regulations such as performance standards will mitigate the negative impacts of traffic, noise, smoke, odor, and other potential nuisances while preserving the character of existing adjacent residential districts. It is intended that the industrial character of the land in this district be preserved by restricting incompatible uses.

M. Urban Village Overlay District. The intent of the Urban Village Overlay District is to protect housing stock and property values in the City of Binghamton, as well as designate those areas that are appropriate for mixed uses and subject to design guidelines to create a vibrant and cohesive neighborhood.

ARTICLE IV, General Guidelines

§ 410-11. Applicability.

Except as may be provided elsewhere in this chapter to the contrary, the general regulations set forth in this Article IV shall apply to land use and development in the City of Binghamton. No land or building shall hereafter be used or occupied and no building or part thereof shall hereafter be constructed, enlarged or its use altered unless such action is in conformance with applicable regulations specified in this Article IV, in addition to the general and special regulations for the zoning district in which said action occurs.

§ 410-12. Lot regulations. [Amended 8-7-2013 by Ord. No 13-49]

A. Reduction. No lot shall hereafter be reduced or altered so as to result in a lot that does not meet the minimum area or yard requirements prescribed by this chapter.

B. Subdivision of a lot. Where a lot is hereafter formed by subdividing a lot already occupied by a building, such subdivision shall not create a nonconforming situation for the lot on which the existing building is located. No zoning or building and use permit shall be issued for a building or land use on the new lot thus created unless it complies with all the applicable provisions of this chapter. 21 of 172

C. Irregularly shaped lot. Where a question exists as to the proper application of any of the requirements of this chapter to a particular lot or parcel because of the peculiar or irregular shape of such lot or parcel, the Board of appeals shall determine how the requirements shall be applied.

D. Undersized lots. When a lot of record which is legally in existence at the time of enactment of this chapter does not comply with the minimum lot regulations as specified in Schedule IA (§ 410-28) or IIA (§ 410-33), such undersized lot may be used for any of the uses listed in said schedules if side, rear and front yard setbacks, off-street parking and density requirements can be met, and access from a public street can be provided. The use of such lots shall be subject to any special conditions which might be applicable in the district.

E. Lot measurements. Measurements for lot depth and for setbacks shall be made from the property lines

F. Through lot. On through lots (see definition in § 410-5) both property lines shall be front lot lines, and front yard setbacks shall apply. For purposes of sitting accessory buildings, such as a private garage, the requirements for front yard setback shall also be applied.

G. Lot in multiple districts. Where one or more district boundary lines divide a lot or land in single ownership at the time of adoption of the Zoning Map, or any amendments thereto, the regulations applying in any one district may be extended into the remainder of the lot, but only when such extension has been approved by the Planning Department. See § 410-45B.

H. Two or more uses on one lot. When a residential and nonresidential use or activity occupy the same parcel (e.g., a business and a house), the more restrictive bulk regulations shall be applied.

§ 410-13. Yards and open space. [Amended 8-7-2013 by Ord. No 13-49]

A. Location. No yard or other open space provided for a specific building for the purpose of complying with the provisions of these regulations shall be included as any part of the yard or open space for any other building. No yard or other open space on one lot shall be considered as a yard or open space for a building on any other lot.

B. Front yard setback. New buildings shall not be required to have front yards greater in depth than the average of the front yard setbacks of the two adjacent properties.

C. Side yard setback. When residential construction is in the form of a townhouse development, where each dwelling unit has one or both side walls in common with an adjacent unit, the side yard requirements of Schedules IA (§ 410-28) and IIA (§ 410-33) shall apply only to the end units in the row.

D. Terraces and porches. A terrace or porch shall not be considered in the determination of lot coverage or yard requirements, except as may be otherwise specified in this chapter, provided that such terrace or porch is without roof, awnings, screens, walls, parapets or other forms of enclosure. Such terrace or porch may have a guard railing or low wall which does not exceed 30 inches in height measured from the lowest level of the terrace or porch. No terrace or porch shall be located less than five feet from any side lot line and may not extend into the front yard by more than 10 feet. Under no circumstance shall the terrace or porch have less than a five-foot setback from the front property line. For lot coverage considerations, a terrace or porch will not be included in lot coverage calculations as long as the terrace or porch is not used as habitable space.

E. Projecting architectural features. Architectural features such as windowsills, belt courses, chimneys, cornices, eaves or bay windows may project into any required yard area by up to five feet, provided that such projection shall be located a minimum of five feet from any lot line. The total length of any bay window projections on any wall shall not exceed 1/4 of the overall length of said wall.

F. Other projections. Open fire escapes, outside stairways, balconies and solar energy systems may project up to five feet into a required yard space, provided that such projections shall not be located less than five feet from any lot line.

§ 410-14. Fences, hedges and walls.

A. Regulations pertaining to fences in all Zoning Districts:

(1) Any installation or replacement of fencing within any zoning district requires the issuance of a Fence Permit. The Zoning Officer shall be responsible for review and approval of Fence Permits. Notwithstanding anything herein to the contrary, the Zoning Officer may waive the requirement for a fence permit for the installation of non-permanent fencing.

(2) Permitted materials. The following materials are permitted materials for fences: masonry, wood, vinyl, metal, and other materials common to the industry and approved by the Zoning Officer.

(3) Barbed wire. Barbed wire is permitted as an accessory material for fencing located on nonresidential lots, or lots on which a nonresidential use is legally established. The use of barbed wire must not conflict with §410-17 or §410-15B of this chapter.

(4) Gates. Height maximums in this section shall apply to gates, and gates cannot open over a public right-of-way or across property lines.

(5) Driveways. Solid fences, walls, natural plantings, or other opaque barriers located less than 10 feet from the side of a driveway and less than 12 feet from the front property line shall not exceed a height of three feet.

(6) Fences located near doors and windows. No fence shall be located within three feet of any door or window, unless the top of the fence is below the bottom sill of the window.

(7) Corner lots. On corner lots, fence height must be reduced to three feet within the triangular area formed by the intersecting street lines and the straight line joining said street lines in accordance with § 410-17.

(8) Hedges. It shall be unlawful for any person to plant, set, have or maintain upon his or her premises adjacent to any street, sidewalk or footpath within the City any hedge unless the same shall be set at least two feet back from the line of the street, and be kept so trimmed not to project into or over said street, sidewalk, or footpath, or be separated from said street, sidewalk or footpath by a fence.

(9) Fences surrounding tennis courts or recreation courts may be a maximum of 12 feet in height.

(10) All fences shall be kept in good repair and free from any serious defects such as severe warping or leaning, large holes, loose material, and missing parts or other serious damage.

B. Fencing in residential zoning districts:

(1) Fencing with a maximum height of six feet is permitted along all property lines, provided it does not conflict with any other provision specified in this chapter.

(2) Fencing with a maximum height of 8 feet is permitted between the rear wall of a primary building and the rear property line, provided it does not conflict with any other provision specified in this chapter.

C. Fencing in nonresidential zoning districts:

(1) Fencing with a maximum height of 10 feet shall be permitted along all property lines, provided it does not conflict with any other provision specified in this chapter.

§ 410-15. Exceptions to height regulations.

A. Height. Unless such features are specifically regulated otherwise in this chapter, the height limitations of §§ 410-28 (Schedule IA) and 410-33 (Schedule IIA) shall not apply to flagpoles, monuments, church spires, belfries, cupolas, and domes not used for human occupancy, nor to chimneys, ventilators, skylights, water tanks, solar and mechanical equipment, radio antennas, amateur radio installations, utility lines and similar installations.

B. Fences, hedges and walls. The provisions of this chapter shall not apply to fences, walls, steps or natural plantings which are no higher than three feet above the natural grade where such features are located, except that there shall be no plantings between the sidewalk and curb on any lot. (See § 410 17.)

§ 410-16. Street frontage.

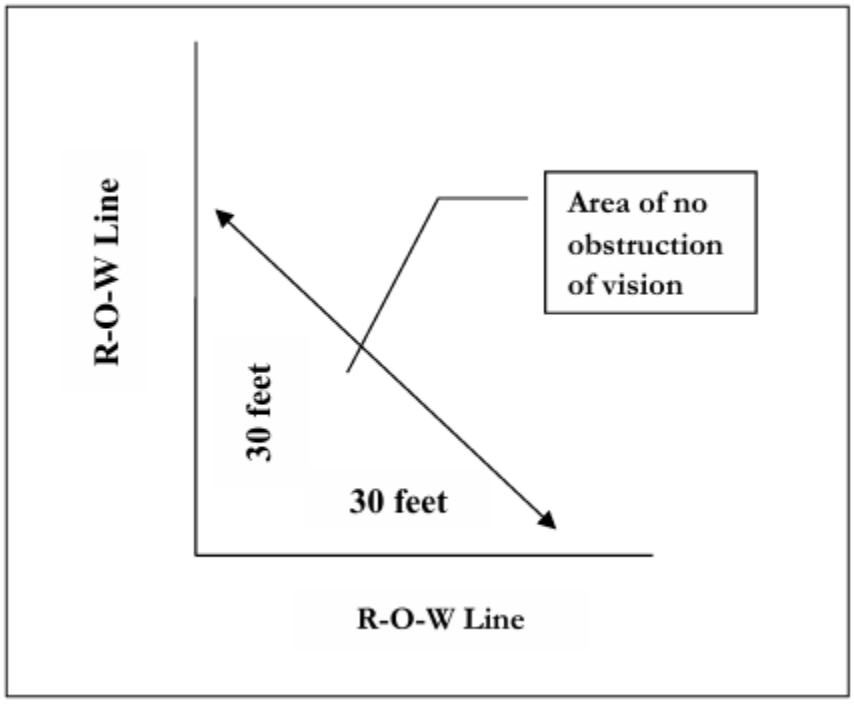
No permit shall be issued for any land use or structure unless the lot on which such land use is to be established, or structure is to be built, has at least 20 feet of frontage on, or a twenty-foot easement giving access to, an improved public street, which frontage or easement provides direct vehicular access to such land

use or structure. For purposes of this chapter this twenty-foot width limitation does not apply to a townhouse subdivision.

§ 410-17. Visibility at intersections. [Amended 8-7-2013 by Ord. No 13-49].

A. Obstruction to vision. No solid fence, plantings, or other such barrier, between three (3) feet and seven (7) feet above the grade of the adjacent street line, shall be erected, planted, parked, or otherwise placed on any corner lot or at the intersection of a public or private driveway and a street within the triangular area formed by the intersecting right-of-way lines and the straight line joining said right-of-way lines at points which are a distance of 30 feet from their intersection.

B. The provision of subsection A of the section shall not apply to a permanent building or to trees which are trimmed to eliminate foliage for a distance of more than seven (7) feet above the grade of the adjacent street line.



C. Conformity. Any obstruction that was erected without proper approvals and does not conform to the requirements of this § 410-17, and which results in a dangerous obstruction to vision of motorists, shall be made to conform after an official notice of noncompliance has been issued by the Zoning Officer or the Supervisor of Building and Construction.

§ 410-18. Landscape Buffer areas. [Amended 8-7-2013 by Ord. No 13-49]

A. Whenever a landscape buffer strip is required by this chapter, it shall meet the following standards:

(1) It shall be a minimum width of five feet along a lot line unless otherwise specified in this chapter.

(2) Landscaping materials shall include a combination of trees, shrubs, vegetative ground cover, and grasses that will rapidly attain a height of six feet. The plantings shall have a minimum height of three feet at the time of planting. The use of mulch and decorative stones or rocks shall be allowed as a decorative feature only.

(3) A minimum of one two (2) inch caliper tree shall be planted per 30 linear feet of required landscape buffer. Any fraction of a tree shall be rounded up to the nearest whole number.

(4) Landscaped areas shall have a minimum of 12 inches of topsoil, tilled into non-compacted subbase base soils. Landscape areas shall be sufficiently sized to support trees and other vegetation.

(5) Except as provided by section 410.17, landscaping shall reasonably be expected to form a year-round dense screen at least four feet high within two years the initial planting. All plant materials shall be climate appropriate, preferable native species, and salt and drought tolerant.

(6) All required planting shall be permanently maintained to good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable buffer requirements. The owner is responsible for maintenance for the continuance of the use on the lot.

(7) All plantings shall comply with Section 410.17, Visibility at Intersections.

(8) A Landscape Plan detailing the above requirements, where applicable, shall be submitted for review and approval to the Planning Department. The Planning Department may consult with the Shade Tree Commission when necessary.

B. Notwithstanding the above, a buffer strip may be substituted by a wall or fence with a five-foot-wide landscaped strip of low plantings if approved by the Planning Department and/or Building Bureau.

§ 410-19. Accessory buildings and uses. [Amended 8-7-2013 by Ord. No 13-49]

A. Limitation. Any accessory building or use shall be limited such that it is compatible with, and incidental to, the principal building or use permitted on the lot. Such accessory structures or use shall not be established prior to establishment of the principal building or use.

B. Permitted accessory structures:

(1) One private garage or carport is allowed per residential lot.

(2) One accessory shed is allowed per residential lot, with a maximum area of 200 square feet and no dimension greater than 16 feet.

(3) The Zoning Officer shall have the authority to allow one additional accessory structure that does not meet the definition of a garage or shed at his/her discretion, provided such structures comply with the bulk requirements of the applicable zoning district, and provided that the allowance of such structures is not in conflict with any other section of this chapter.

C. Standards. Except as may be otherwise regulated elsewhere in this chapter, an accessory building hereafter erected, enlarged or moved on a lot shall comply with the following standards:

(1) Detached building. For purposes of providing fire separation a detached garage or other accessory building shall:

(a) Be at least five feet from the nearest principal building. If less than five feet, the proposed structure shall meet the standards of the New York Uniform Fire Prevention and Building Code.

(b) Be not more than 16 feet in height if detached from a one-story building and not more than 20 feet in height if detached from a two-story building.

(c) Not be located within the required minimum front setback of the applicable zoning district and be setback no less than five feet from any rear or side lot line.

(d) Cover a ground area no larger than that covered by the principal building, or 676 square feet, whichever is less. Ground cover does not include appurtenances such as patio covers that are not used for vehicle storage and do not contain two or more walls.

(e) If the lot size is greater than 15,000 square feet, a garage with a maximum square footage of 1,008 square feet may be built.

(f) In the event a garage is destroyed by fire or demolished due to structural instability and a replacement garage is constructed in the exact same location and the exact same size, no area variances are required if the following conditions can be met:

[1] A minimum side and rear setback of one foot can be provided.

[2] There are no existing encroachments onto neighboring lots.

(2) Attached building. Garages or other accessory buildings attached to a principal building shall:

(a) Be no higher than the principal building.

(b) Comply with the bulk requirements which would be applicable to any principal building on the lot.

(c) Cover a ground area no larger than that covered by the principal building, or 676 square feet, whichever is less. Ground cover does not include appurtenances such as patio covers that are not used for vehicle storage and do not contain two or more walls.

(d) If the lot size is greater than 15,000 square feet, a garage with a maximum square footage of 1,008 square feet may be built.

(e) (e) In the event a garage is destroyed by fire or demolished due to structural instability and a replacement garage is constructed in the exact same location and the exact same size, no area variances are required if the following conditions can be met

[1] A minimum side and rear setback of one foot can be provided.

[2] There are no existing encroachments onto neighboring lots.

D. Special use permit. When a principal building or use requires a special use permit, as set forth in §§ 410-27 and 410-32, any accessory use to such principal building or use shall also require a special use permit. (See Article VIII.)

E. Keeping of animals. An accessory use in any district shall not include the sheltering, keeping or maintaining of hogs, goats, sheep, horses, ponies, mules, donkeys, cattle, chickens, rabbits or any animal not commonly considered a domestic pet, except that up to four hens, ducks, or rabbits may be kept and maintained in a manner that does not create odors or noise disturbing to occupants of adjacent properties. See also § 410-19J.

F. Accessory dwelling. Accessory dwellings are permitted within the R-1, R-2 and R-3 zoning districts when the following conditions are met:

(1) Such a dwelling is occupied by a person or persons included in the household residing in the principal dwelling on the lot.

(2) In the R-1, the accessory dwelling must be attached to the principal dwelling, and no separate exterior entrance shall be provided. In the R-2 and R-3 districts, an accessory dwelling may have one or more exterior entrances, and may be detached from the principal dwelling, provided it can meet all applicable bulk requirements.

(3) The dwelling shall be no more than 50% of the gross floor area of the principal dwelling unit.

(4) There is only one such dwelling on the lot.

(5) The addition of an accessory dwelling will not increase the total number of dwelling units on the property beyond the number allowed in the applicable zoning district

G. Solar energy systems as an accessory use or structure. Solar energy systems, as covered under the New York State Unified Solar Permit, are permitted under the following circumstances:

(1) Roof-mounted solar energy systems.

(a) Roof-Mounted Solar Energy Systems that use the electricity onsite are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or accessory structure.

(b) Height. Solar Energy Systems shall not exceed the maximum height restrictions of the zoning district within which they are located and are provided the same height exemptions granted to building-mounted mechanical devices or equipment.

(c) Aesthetics. Roof-Mounted Solar Panels facing any public street must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.

(d) Roof-Mounted Solar Energy Systems that use the energy onsite shall be exempt from Administrative Planning Review and from Planning Commission Review and Approval. The property owner is required to obtain any required building permits prior to installation.

(2) Ground-mounted solar energy systems.

(a) Ground-Mounted Solar Energy Systems that use the collected energy onsite are permitted as accessory structures in all commercial and industrial zoning districts with Planning Commission Review and Approval of a site plan. Additionally, the property owner is required to obtain any required building permits prior to installation.

(b) Height and Setback. Ground-Mounted Solar Energy Systems shall adhere to the height and setback requirements of the zoning district within which they are located

(c) Lot Coverage. Ground-Mounted Solar Energy Systems are limited to 25% of the lot area, and the surface area of all panels shall be included in total lot coverage calculations.

(d) Ground-Mounted Solar Energy Systems may only be installed in the side or rear yards.

H. Home occupation as an accessory use.

(1) Intent. This subsection is designed to protect and maintain the character of established residential neighborhoods while recognizing that certain professional and limited business activities have traditionally been carried on in residential dwellings. Furthermore, this

subsection intends to ensure the clearly incidental or secondary status of the home occupation in relation to the residential use of the dwelling.

(2) The term home occupation shall include but is not limited to the following:

(a) Baker, chef, or caterer involving the preparation and delivery of food/beverages exclusively for off-site service without on-site consumption by consumers.

(b) Beauty salon or barbershop with a maximum of two chairs. Business shall be conducted by appointment only.

(c) Day care with a maximum six adult clients or eight children, no more than 6 of which shall be younger than school age, and no overnight care. Such facilities must be licensed by the appropriate agency.

(d) Office of an accountant, architect, computer programmer, counselor, engineer, lawyer, real estate agent or insurance agent. Business shall be conducted by appointment only.

(e) Office of a salesperson, provided that no retail or wholesale transactions are made on the premises.

(f) Teacher/Instructor (such as dance, music, crafts) with a maximum ratio of one teacher to five students.

(g) Workshop or studio for an artist, sculptor, photographer, craftsperson, writer, composer, musician, seamstress, dressmaker, or tailor.

(h) Homebound employment of a person with a physical or developmental disability who is unable to work away from home by reason of disability.

(3) Home occupations are permitted within all residential zoning districts when the following conditions are met:

(a) An application for Administrative Review and Approval must be submitted and approved prior to the establishment of a home occupation.

(b) No more than 15% of the floor area of the dwelling unit shall be devoted to the home occupation.

(c) The home occupation is carried on wholly within the primary structure on the premises.

(d) There is no internal or external alteration of the dwelling that changes the character and appearance thereof as a dwelling.

(e) Hours of operation shall be between 7:00 a.m. or after 9:00 p.m.

(f) No more than one individual who does not permanently and legally reside in the household may be employed.

(g) No retail sales or displays for retail sale of commercially manufactured items are permitted on the premises.

(h) There shall be no outdoor storage of commercial vehicles, equipment or materials associated with the home occupation.

(i) No deliveries shall be made from any vehicle having a gross vehicle weight greater than eight tons. Deliveries shall not be made before 7:00 a.m. or after 9:00 p.m.

(j) Any home occupation that received clients on-site shall provide one on-site parking space exclusively for the business.

(k) No home occupation shall be permitted which is noxious, offensive or hazardous by reason of hours of operation, vehicular traffic, generation or emission of noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, refuse, radiation or other objectionable emissions.

(l) Permission to conduct a home occupation is not transferable to any other person or property, and shall expire upon discontinuance for a period of one year.

(m) No more than 50% of the area permitted to be used as a home occupation shall be occupied by inventory and supplies.

I. Bed-and-Breakfast home as an accessory use. Bed-and-breakfast homes are permitted in the R-1, R-2, and R-3 districts when the following conditions are met:

(1) Planning Commission Review and Approval of a site plan is required.

(2) The facility must be owner-occupied.

(3) A maximum of five guest rooms may be rented on an overnight basis.

(4) Guest rooms may be occupied by a family or up to two people.

(5) Guest occupancy shall not exceed 21 days.

J. Temporary structures. Temporary structures are permitted when the following conditions are met:

(1) A site plan is submitted to and approved by the Planning Department, in accordance with the applicable provisions of Article IX of this chapter.

(2) The structure must comply with bulk requirements for the district it is located in.

(3) The structure must be removed within six months of installation.

(4) In residential districts, only one temporary structure may be located on a property at any given time.

(5) Temporary structures shall not be utilized for human occupancy.

(6) Approval to install a temporary structure may not be renewed for at least six months from the removal of any previous temporary structure. For unusual or complex projects, the Planning Department may determine that conditions warrant the waiving of this provision.

K. Outdoor storage of recreational vehicles as an accessory use. Up to two (2) recreational vehicles may be stored outdoors on a residential lot. No recreational vehicle shall be located within any required front or side yard setback area.

L. Residential kennels as an accessory use. Residential kennels are permitted when the following conditions are met:

(1) There shall be no outdoor storage of refuse, feed, or other materials.

(2) Such facility shall accommodate a maximum of four small animals, such as dogs, cats, birds, ferrets, or rabbits.

(3) The facility located on a single residential lot with an established, owner-occupied residential dwelling.

M. Residential Amenity and Assembly Spaces. When located in residential or mixed-use buildings as accessories to a residential use, amenity spaces including fitness centers, common kitchens, and computer rooms, and assembly spaces including lounges, theaters, and billiard rooms, shall be regulated as follows:

(1) Congregate Living facilities, Multiple-Unit Dwellings, and properties containing more than 12 total bedrooms shall not contain any assembly spaces or other amenity spaces that are accessory to the residential use below grade, with the exception of structured parking, laundry facilities, and/or storage facilities. Any below-grade laundry or storage facilities shall be proportioned and constructed such that they do not allow an occupancy limit above 10 persons per partitioned space.

(2) In Congregate Living facilities, Multiple-Unit Dwellings, and properties containing more than 12 total bedrooms, the occupancy limit of any above-grade residential amenity or assembly space shall not exceed 25 persons.

(3) The actual Occupancy Limit shall be determined by the Fire Marshal based on square footage, intended use and furnishings/equipment, not to exceed the limits above.

§ 410-20. Preexisting conditions.

Nothing in this chapter or any amendment thereto shall be construed as changing the plans or use of present buildings, or the construction, use or occupation of any building for which a building permit has heretofore been issued. All plans heretofore filed and approved, ratified, and confirmed and the rights to construction thereunder are hereby vested in the holders thereof.

ARTICLE V, Special Purpose Regulations

§ 410-21. Intent.

The intent of this Article V is to protect public health, safety and general welfare in the City of Binghamton by:

A. Restricting development in areas that are periodically subject to the damaging impact of flooding and high water;

B. Establishing a series of standards, measurements and thresholds designed to regulate the performance and operation of land use activities within the City and to minimize potentially negative environmental impacts of such activities;

§ 410-22. Applicability.

Standards and procedures set forth in this Article V shall apply to all affected land use activities, as applicable, in all zoning districts in the City of Binghamton. No land use activity regulated by the provisions of the article shall be construed to be permitted, and no building and use permit issued, until there is compliance with the specific provisions as set forth herein.

§ 410-23. Floodplain management.

A floodplain development permit shall be obtained from the Planning Commission before the start of construction or any other development within the area of special flood hazard as set forth in Chapter 240, Flood Damage Prevention.

§ 410-24. Performance standards. [Amended 7-20-09 by Ord. No. 23-2009; Amended 12-19-11 by LL. No. 005; Amended 8-7-2013 by Ord. No 13-49; Amended 2-11-2026 by Ord. No 26-12]

A. Purpose. The purpose of these performance standards is to regulate the potentially objectionable aspects of land uses or activities in the City of Binghamton by the application of specific standards

whenever possible. The objectives of these standards are consistent with the promotion of public health, safety and general welfare and include:

(1) To reduce to a minimum dissemination of smoke, gas, dust, odor or any other atmospheric pollutant outside the building in which the use or activity is conducted.

(2) To control noise perceptible beyond the boundaries of the immediate site of the use or activity.

(3) To prevent the discharge of any waste material into any watercourse.

(4) To prevent the dissemination of vibration or heat or electromagnetic interference beyond the immediate site of the use or activity.

(5) To eliminate physical hazard by reason of fire, explosion, radiation, or any similar cause, to property in the same or an adjacent district.

Table 1
Maximum Permissible Continuous Sound Levels by Receiving Property Category (DBA)

Sound Source Project Category	**Another Dwelling within a Multi-Dwelling-Unit Building**		**Residential**		**Commercial or Public Service Community Facility**	**Industrial or Public Service Community Facility**	**City Park**
	7:00 am - 10:00pm	**10:00pm – 7:00am**	**7:00 am - 10:00pm**	**10:00pm – 7:00am**	**All times**	**All times**	**8:00am – 9:00pm**
Any location within a multi-dwelling unit building	50	45	55	50	65	70	65
Residential (or public spaces or rights-of-way	55	50	55	50	65	70	65
Commercial public service, or community service facility	55	50	55	50	65	70	65
Industrial or public service *industrial*	55	50	55	50	65	70	65

B. Noise control.

(1) All land uses shall comply with the noise standards established in Chapter 292, Noise. Maximum permissible continuous sound levels are listed in the following table:

(2) In addition, no person shall make, cause, allow, or permit the operation of any impulsive source of sound within any and all property in the City which has a peak sound pressure level in excess of 80 dBA. If an impulsive sound is the result of the normal operation of an industrial or commercial facility and occurs more frequently in any hour, the levels set forth in Table 1 shall apply.

C. Vibration. No vibrations are permitted which are discernible to the human sense of feeling without instruments at any point along the property lines of the subject premises. The standard shall not apply to vibrations created during temporary construction work or from transportation

facilities. In the event of a complaint, the Zoning Officer or the Supervisor of Building and Construction shall measure the vibration using an appropriate measuring system.

(1) Maximum permitted steady state and impact vibration displacement (in inches):

Frequency (cycles per second)	**Vibration Displacement (inches)**	
	Steady State	Impact
Under 10	0.0005	0.0010
10 to 19	0.0004	0.0008
20 to 29	0.0003	0.0006
30 to 39	0.0002	0.0004
40 and over	0.0001	0.0002

(2) No activity shall cause or create a steady state or impact vibration on a lot line with a vibration displacement by frequency bands in excess of that indicated in the table above.

D. Fire and explosive hazards. All activities involving and all storage of inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire-fighting suppression equipment and devices standard in this industry. Burning of waste materials in open fires is prohibited. The relevant provisions of Chapter 235, Fire Prevention, of the Code of the City of Binghamton, as well as state and local laws and regulations, shall also apply.

E. Fly ash, dust, fumes, and other forms of air pollution. Uses shall be so operated as to control the emission of particulate matter to the degree that it is not detrimental to or shall endanger human health, animals, vegetation, or property. All such regulations shall also comply with applicable federal and state regulations.

F. Smoke. Uses shall be so operated as to control the emission of smoke to the degree that it is not detrimental to or shall endanger human health, animals, vegetation, or property. All such activities shall also comply with applicable federal and state regulations. For purposes of grading the density of smoke, the Ringelmann Chart published and used by the United States Bureau of Mines shall be employed. Any emission of smoke shall not be of a density equal to or greater than number two on the Ringelmann Chart. In cases of smoke other than black in color, an approved density scale equivalent to the Ringelmann Chart shall be used.

G. Radiation. No operation, whether or not licensed by the United States Department of Energy, shall be conducted so as to exceed the standards established by said Commission for protection against radiation or which violates any regulation of any other administrative body charged with the responsibility of controlling radiation.

H. Electromagnetic radiation and interference. No activity, operation or use shall cause electromagnetic radiation interference that:

(1) Adversely affects persons or the operation of any equipment across property lines; and

(2) Is not in conformance with the regulations of the Federal Communications Commission.

I. Humidity and heat. Any activity producing humidity, in the form of steam or moist air, or producing heat, shall be carried on in such a manner that the steam, humidity, or heat is not perceptible at any lot line.

J. Outdoor lighting.

(1) Purpose. The purpose of these standards is to require and set minimum standards for outdoor lighting which:

(a) Provide for and control lighting in outdoor public places where public safety, and welfare are potential concerns. health,

(b) Protect drivers and pedestrians from the glare of nonvehicular light sources.

(c) Protect neighbors and the night sky from nuisance glare and light trespass from improperly selected or poorly placed, aimed, applied, maintained or shielded light sources.

(d) Promote energy-efficient lighting design and operation.

(e) Protect and retain the intended visual character of the various City of Binghamton venues.

(2) Applicability.

(a) All uses within the City of Binghamton where there is outdoor lighting, including, but not limited to, residential, multifamily residential, commercial, industrial, public and private recreational/sports, institutional uses, and sign, billboard, architectural and landscape lighting, shall be subject to these regulations.

(b) Temporary seasonal decorative lighting and emergency lighting are exempt from all but the glare-control requirements of this chapter.

(c) Emergency lighting, as may be required by any public agency while engaged in the performance of its duties, is exempt.

(3) Criteria.

(a) Illumination levels. Lighting, where required by this chapter, or otherwise required or allowed by the Supervisor of the Office of Building and Construction, shall have intensities, uniformities and glare control in accordance with the recommended practices of the Illuminating Engineering Society of North America (IESNA).

(b) Lighting fixture design.

[1] Fixtures shall be of a type and design appropriate to the lighting application.

[2] For the lighting of predominantly horizontal surfaces such as, but not limited to, parking areas, roadways, vehicular and pedestrian passage areas, merchandising and storage areas, automotive-fuel dispensing facilities, automotive sales areas, loading docks, cul-de-sac, active and passive recreational areas, building entrances, sidewalks, bicycle and pedestrian paths, and site entrances, fixtures shall be aimed straight down and shall meet IESNA full-cutoff criteria. Fixtures with an aggregate rated lamp lumen output per fixture that does not exceed the rated output of a standard sixty watt incandescent lamp, i.e., 1,000 lumens, are exempt from the requirements of this subsection. [

[3] For lighting of predominantly non-horizontal surfaces such as, but not limited to, facades, landscaping, signs, billboards, fountains, displays, and statuary, fixtures shall be fully shielded and shall be installed and aimed so

as to not project their output into the windows of neighboring residences, adjacent uses, past the object being illuminated, skyward or onto a public roadway. Fixtures with an aggregate rated lamp lumen output per fixture that does not exceed the rated output of a standard sixty-watt incandescent lamp, i.e., 1,000 lumens, are exempt from the requirement of this subsection.

[4] "Barn lights," also known as "dusk-to-dawn lights," where visible from other properties, shall not be permitted unless fully shielded.

(c) Control of nuisance and disabling glare.

[1] All lighting shall be aimed, located, designed, fitted, and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property.

[2] Floodlights and spotlights shall be so shielded, installed and aimed that they do not project their output into the windows of neighboring residences, adjacent uses, past the object being illuminated, skyward or onto a public roadway or pedestrian way.

[3] Parking facility and vehicular and pedestrian way lighting (except for safety and security applications and all-night business operations) for commercial, industrial and institutional uses shall be automatically extinguished no later than one hour after the close of business or facility operation. When safety or security lighting is proposed for after-hours illumination, it shall not be in excess of 33% of the number of fixtures required or permitted for illumination during regular business hours.

[4] Illumination for signs, billboards, building facades and/or surrounding landscapes for decorative, advertising or aesthetic purposes is prohibited between 11:00 p.m. and dawn, except that such lighting situated on the premises for a commercial establishment may remain illuminated while the establishment is actually open for business, and until one hour after closing.

[5] Vegetation screens shall not be employed to serve as the primary means for controlling glare. Rather, glare control shall be achieved primarily through the use of such means as cutoff fixtures, shields and baffles, and appropriate application of fixture mounting height, wattage, aiming angle and fixture placement.

[6] The illumination projected from any use onto a residential property shall at no time exceed 0.5 footcandle, measured line-of-sight from any point on the receiving residential zoning district.

[7] The illumination projected from any property to a nonresidential property district shall at no time exceed 1.0 footcandle, measured line-of-sight from any point on the receiving property.

[8] Externally illuminated billboards and signs shall be lighted by fixtures mounted at the top of the billboard or sign and aimed downward. The fixtures shall be designed, fitted and aimed to place the light output onto and not beyond the sign or billboard.

[9] Except for certain recreational lighting, fixtures meeting IESNA full-cutoff criteria shall not be mounted in excess of 20 feet above finished grade. Fixtures not meeting IESNA full-cutoff criteria shall not be mounted in excess of 16 feet above finished grade.

[10] The United States and the state flag shall be permitted to be illuminated from dusk until dawn. All other flags shall not be illuminated past 11:00 p.m. Flag lighting sources shall not exceed 10,000 lumens per flagpole. The light source shall have a beam spread no greater than necessary to illuminate the flag.

[11] Under-canopy lighting, for such applications as gas/service stations, hotel/theater marquees, or fast-food/bank/drugstore drive-ups, shall be accomplished using flat-lens full-cutoff fixtures aimed straight down and shielded in such a manner that the lowest opaque edge of the fixture shall be below the light source at all lateral angles. The average illumination intensity in the area directly below the canopy shall not exceed 20 maintained footcandles, and the maximum intensity shall not exceed 40 maintained footcandles.

(d) Installation.

[1] Electrical feeds for lighting standards shall be run underground, not overhead.

[2] Poles supporting lighting fixtures for the illumination of parking areas and located directly behind parking spaces, or where they could be hit by snow plows, shall be placed a minimum of five feet outside paved area or tire stops, or placed on concrete pedestals at least 30 inches high above the pavement, or suitably protected by other means approved by the Supervisor of the Office of Building and Construction or the Planning Department.

[3] Pole-mounted fixtures for lighting horizontal tasks shall be aimed straight down.

(e) Maintenance. Lighting fixtures and ancillary equipment shall be maintained so as to always meet the requirements of this chapter.

(4) Plan submission. Lighting plans, when requested by the Supervisor of Building and Construction or the Planning Department, shall be submitted for building permits, variances, Administrative Planning Review and Approval, Planning Commission Review and Approval of a special use permits and site plan review applications for review and approval.

(5) Compliance monitoring.

(a) Safety Hazards

[1] If the Zoning Officer, Supervisor of Building and Construction or any relevant City department judges that a lighting installation creates a safety hazard, the person(s) responsible for the lighting shall be notified and required to take remedial action.

[2] If appropriate corrective action has not been effected within 15 days of notification, the City of Binghamton may take appropriate legal action.

(b) Nuisance glare and inadequate illumination levels. When the Zoning Officer or the Supervisor of the Office of Building and Construction or any relevant City department judges that an installation produces unacceptable levels of nuisance glare, skyward light, excessive or insufficient illumination levels or otherwise varies from this chapter, the City of Binghamton may cause notification of the person(s) responsible for the lighting and require appropriate remedial action.

(6) Nonconforming lighting. Any lighting fixture or lighting installation existing on the effective date of this chapter that does not conform with the requirements of this chapter shall be considered as a lawful nonconformance. A nonconforming lighting fixture or lighting installation shall be made to conform with the requirements of this chapter when:

(a) Minor corrective action, such as re-aiming or shielding, can achieve conformity with the applicable requirements of this chapter.

(b) It is deemed by the City of Binghamton to create a safety hazard.

(c) It is replaced by another fixture or fixtures, abandoned, or relocated.

(d) There is a change in use.

K. Odor. No land use or establishment shall be permitted to emit odorous gases or other odorous matter in such quantities as to be readily detectable without instruments at the property line of the lot from which they are emitted, either at ground level or habitable elevation. Any process involving creation or emission of any odors shall be provided with a secondary safeguard system, so control will be maintained if primary safeguard systems should fail.

L. Storage of unregistered and/or unlicensed vehicles. See Chapter 265, Housing and Property Maintenance, of the Code of the City of Binghamton, §§ 265-1 and 265-13H(1)(f).

M. Urban Village Overlay District in addition to the other requirements in this Chapter, shall include the following design guidelines.

(1) Public Right-of-way "Complete Streets"

(a) Guiding Principles: The public right-of-way is the term used to describe the publicly owned area between property lines. It can include a variety of elements, such as lanes for vehicle travel, parking, bicycling, walking areas, street furniture, bus stops, utility poles, planting strips, with landscaping and must balance the needs of pedestrians, bicycles, trees, and signs. Streets transit and the automobile in creating an attractive and viable neighborhood. commercial activity second, parking third, and should be "Complete Streets" which respect the automobile hierarchy. Urban Streets are the the community is acted out. Streets are Streets are for people first, through-traffic fourth. They pedestrian, bicycle, transit, stages on which the public life of the most important and pervasive public space and common ground, when it comes to making the Urban Village Overlay District a destination.

(b) Recommendations:

Sidewalks: The most profound way to change our streets is to change the balance between people and cars by seeking the widest possible sidewalks and calming traffic.

Crosswalks: Crosswalks should favor pedestrian movement at all major intersections.

Bike Lanes: Where bike lanes are desired, it should be at the expense of a care lane or a parking strip rather than at the expense of sidewalk width. Ideally, most streets in the Urban Village Overlay District should be "calm" enough to allow bike traffic in car lanes rather than in a separate bike lane.

Lighting: Lighting exists at two levels — street lighting and sidewalk lighting. Street lighting provides a base level of illumination. Sidewalk lighting provides lighting for pedestrians. Both should meet dark sky guidelines and define the street space. Sidewalk lighting should define the pedestrian space and be of pedestrian scale.

Street Trees: Trees should be consistently used to define the street space, provide shade in the summer, and create great environments for sidewalk cafes. The Binghamton Shade Tree Commission should be consulted for all street tree plantings.

Transit Stops: Transit stops should be provided with amenities, public services and proper signage to increase the use of public transportation.

(2) Parking

(a) General

[1] If the Zoning Officer, Supervisor of Building and Construction or any relevant City department judges that a lighting installation creates a safety hazard, the person(s) responsible for the lighting shall be notified and required to take remedial action.

[2] If appropriate corrective action has not been effected within 15 days of notification, the City of Binghamton may take appropriate legal action.

(b) Off-street parking

[1] Parking areas should not front on pedestrian oriented streets

[2] Parking should be located at the rear of the principal building with access from a driveway or shared alley, if possible

[3] For parcels located on the corner, parking shall be located to the rear of the structure

[4] Parking otherwise visible from the street should be screened with a wall or screening compatible with the building design and in accordance with §410 55 below. The City of Binghamton Planning Commission shall determine the effectiveness of the screening measures and their compatibility with the building

(3) Retaining Existing Buildings

(a) Background: The Greenest building is the one already built, according to Carl Elefante, FAIA. The reuse of existing buildings is inherently sustainable. Preservation maximizes the use of existing materials and infrastructure, reduces waste, and preserves the historic character of older towns and cities. The energy embedded in an existing building can be 30% of the embedded energy of maintenance and operations for the entire life of the building. Sustainability begins with preservation. Historic buildings were traditionally designed with many sustainable features that responded to climate and site. When effectively restored and reused, these features can bring about substantial energy savings. Taking into account historic buildings' original climatic adaptations, today's sustainable technology can supplement inherent sustainable features without compromising unique historic character

(b) Guiding Principles: The Urban Village Overlay District is intended to be a destination that attracts the community, visitors, workers and residents with these characteristics: unique, healthy, environmentally friendly and memorable. Retaining existing buildings supports each of these characteristics. Older buildings, properly maintained, enhance the uniqueness of the built environment and pedestrian scale; attract unique uses with architectural detail and small bay sizes; and conserve energy and natural resources (the greenest building is the one already built). Additionally, many people choose to visit and live in places that recognize the importance of saving the places that document our history and heritage with physical structures.

(c) Objectives

[1] Recognize existing contributing (character/cultural heritage) buildings as an economic development asset in the Urban Village Overlay District.

[2] Develop means to revitalize and retain existing contributing (character/cultural heritage) buildings in the Urban Village Overlay District.

[3] Use adaptive reuse of existing buildings to further neighborhood goals: create vibrant, attractive housing options, and celebrate the Westside experience.

(4) Residential Structures

(a) Guiding Principles: The character and quality of the Urban Village Overlay District is very dependent on internal flow and street patterns. This is necessary to create a neighborhood which encourages pedestrian circulation, reduces auto dependency and fosters interaction among neighbors. This approach to neighborhood creation will also foster the unity of the Urban Village Overlay District with a larger integrated community of the Westside Neighborhood

(b) Residential Walls and Façades: The design, form and materials of walls and facades play an important role in determining a building's overall character. A major goal of the Urban Village Overlay District is to provide a clear and appropriate visual aesthetic for the area. The use of traditionally appropriate façade treatments and designs is a vital aspect of achieving this aesthetic.

[1] Large surface expanses on walls should be articulated with varied reveal patterns (control joints), material/texture/color changes, architectural detailing, changes in plane/direction of siding materials, or other means. These measures create distinct shadow patterns resulting in the increased perception of depth and variety

[2] Materials that are inherently low maintenance and give a feeling of permanence such as brick, stone, concrete and concrete block are encouraged along the ground plane at pedestrian levels

[3] Exterior walls and facades should include a combination windows, trellises, arcades, canopies, roof overhangs, awnings, recessed or projected stories, balconies, reveals, wainscots, varied materials and/or other architectural elements. This articulation contributes to a building's character, provides visual diversity, enhances pedestrian scale and can aid in climate control

[4] Replacement windows should match existing openings, window styles and materials. If it is necessary to change window materials, traditionally appropriate materials should be used

[5] Windows should be recessed from the surrounding exterior wall and finished with architecturally appropriate trim and sill details.

[6] Building facades should have a balance of solid and transparent surfaces.

[7] Wood and composite siding painted in historically appropriate colors is encouraged.

[8] "Plinth" blocks at building bases and corners in poured concrete, cut stone, or masonry are encouraged.

[9] Corrugated fiberglass or metal ("tin") panels are not allowed. 37 of 172

[10] Plywood, hardboard or dimensional lumber is discouraged, especially on the front façade.

(c) Residential Accent Materials: Accents and architectural details are features on buildings that provide added visual interest, emphasis, variety and quality in appearance.

[1] Brick masonry, high quality man-made stone and natural stone in medium to light earth toned colors may be appropriate for the first-floor of the building

[2] The use of decorative columns, porch rails and spindles, decorative brackets, and other architectural ornamentation appropriate for the architectural style of the building is encouraged.

(d) Residential Refuse and Trash Enclosures

[1] Locate refuse container enclosures in rear and/or interior side yards to minimize their visibility from adjacent uses, streets and upper story uses.

[2] Refuse collection areas and enclosures should be six feet in height, should be architecturally compatible with the overall design theme of adjacent buildings using similar durable and non-combustible materials, textures, colors and form. [

[3] The use of lattice or other roof structures should be incorporated into refuse enclosures design where possible.

(e) Residential Structure Orientation

[1] Residential buildings should have pedestrian access and visual orientation to the adjacent roadways. Front entrances shall face the street.

[2] Residential buildings should be oriented on the site to create interesting and safe common open space areas that promote neighborly interaction.

[3] Special building configurations should be considered for corner lots because they have street frontage on two sides. It is important to address both of the streets on which the building abuts. Orientation of the primary façade should take into account the location of entries on adjacent lots and lots across the street, as well as adjacencies to parks and other open spaces

or urban design features. The driveway may access either, but orientation to the minor street is preferred.

[4] Porches. The purpose of providing a porch is to create a buffer and human scale layer between the sidewalk and the house. It is also to provide a social edge to the private dwelling in which people can choose to "see and be seen" along the neighborhood streets. It is recommended that the porch is raised 8"---12" or at least one step above adjacent grade. The porch can be integrated with second floor elements to provide balconies and decks. The front door must be clearly visible from the street.

(f) Residential Circulation and Parking

[1] Surface parking lots should be located away from the adjacent roadways and to the rear of the buildings. Parking is not allowed between the building and the street.

[2] All parking shall be in accordance with the City of Binghamton Zoning Code.

[3] In order to help reduce storm water run-off, the use of permeable surface materials as approved by the City of Binghamton Engineering Department is encouraged

(g) Residential Landscaping

[1] Front yards should consist of grass and include shrubs, low-plantings, and/or trees. Front yards should not be paved, except for areas required for driveways.

[2] Utility strips are located between the street curb and sidewalk within the public roadway right-of-way. These areas should be planted with grass. The planting of street trees is strongly encouraged.

[3] Tree species within utility strip should be installed per the recommendations of the City of Binghamton Shade Tree Commission [

4] Tree placement should be coordinated with streetlights, utilities, and entry drives.

[5] Trees should be located as to preserve sight lines at intersections and near signage

[6] Water-conserving plant materials should be used where practical.

[7] Clear sight lines should be maintained at entry drives and intersections per City standards

[8] Decorative rocks, cobble, crushed rock, permanent wood chips or gravel are not to be in lieu of ground cover material; however they may be used as accent material to stabilize drainage swales and channels

(h) Residential Fencing

[1] Front Yard (includes side yard areas 10 feet behind front façade)

[a] Front yard fencing is discouraged. Front yard fences and side yard fences within the front yard setback should not exceed a height of three (3) feet

[b] Fences should be mainly constructed of stained wood, masonry and/or metal, other fencing materials must be consistent with the materials and architecture of the home.

[c] Chain link fencing is discouraged

[2] Rear/Side Yard

[d] If residential side and rear yard fences are used, they should not exceed 6 feet in height. (i) [e] Fences should be mainly constructed of stained wood, masonry and/or metal, other fencing materials must be consistent with the materials and architecture of the homes

(i) Residential Lighting: The lighting within the Urban Village Overlay District will have a major impact on the overall aesthetics and safety of the community. The lighting standards are intended to ensure a consistent level of light throughout the neighborhood without crating a monotonous effect. Each light standard and lamp type should be selected within the context of the entire community design objectives and with specific regard to the functional demands for its location. These lighting standards will provide a hierarchy of lighting effects which contribute to the overall cohesiveness of the community image. When used together with the other development guidelines, these standards will unify the project area.

[1] Light sources with a white color within the color temperature range of 2,700 – 4,500 degrees Kelvin are encouraged. Golden, yellow, blue, or reddish light sources should not be used. Blinking lights are not permitted.

[2] Light standards should be attractive to look at during daylight hours.

[3] Light sources should be located and directed to minimize glare to adjacent uses. Indirect wall lighting or "wall washing" is strongly encouraged rather than spot lighting from great distances.

[4] Building lighting should be carefully integrated into the building or concealed in the landscape as to hide the source at night and obscure the fixture in daylight

[5] Light fixtures should not project above the façade or roofline of the building 39 of 172 [

6] Energy saving devices such as solar sensors and timers should be utilized. The use of energy efficient bulbs is encouraged

[7] These guidelines do not apply to seasonal decorative lighting and emergency lighting, except that such lighting should not result in a disabling glare as set forth in §410-24(J) of the Zoning Code.

[8] All exterior lighting must in all other respects conform to §410-24(J) of the Zoning Code

(5) Non-Residential Structures

(a) Guiding Principles: To establish an effective and vibrant Urban Village Overlay District, it is necessary allow for a mixed-used neighborhood which balances residential and commercial use. These design guidelines will help integrate non residential use structures into the area while still allowing for the creation of a mixed used neighborhood.

(b) Non-residential Walls and Facades: The design, form and materials of walls and facades play an important role in determining a building's overall character. A major goal of this guideline is to provide a balance between the residential character of the neighborhood and the desire for and requirements of commercial development.

[1] Large surface areas on exterior walls should be articulated to create distinct shadow patterns, depth, and variety. Wall surfaces should not exceed 250 square feet or have continuous runs greater than 50 linear feet without some form of articulation. At a minimum, wall surfaces should have clearly defined vertical divisions at approximately 15 to 30 foot intervals

[2] Materials that are inherently low maintenance and give a feeling of permanence such as brick, stone, poured concrete and decorative concrete block are encouraged along the ground plane and at pedestrian levels.

[3] Exterior walls and facades, especially at ground level, should include windows, trellises, arcades, canopies, roof overhangs, awnings, recessed or projected stories, balconies, reveals, wainscots, varied materials and other architectural elements. This articulation contributes to a building's character, provides visual diversity, enhances pedestrian scale and can aid in climate control. "Blank" walls are discouraged

[4] Any articulation and/or detailing of exterior walls at ground level should be integrated with landscape features (trees, plants, walls, trellises and unique land forms) to ensure appropriate transition from ground to wall plane.

[5] Any redesign of existing structures for non-residential uses should take into consideration any existing architectural elements or designs of the building in the new plans

[6] For new construction, the minimum height of a ground floor commercial space should be fifteen (15) feet measured from finished grade to the ceiling plate.

(c) Non-Residential Structure Openings: Building openings refers to windows, doors, skylights, storefronts, and other interruptions/penetrations in a building façade. The character and quality of a building is highly influenced by the size, scale proportion, edge detail, material and color of these elements.

[1] Fabric awnings are encouraged on storefronts and windows. Awnings' shapes and colors must complement the overall building

[2] Windows and/or doors located above the first level should be stacked over those on the first level

[3] Ground floor window openings for new construction of non-residential structures should be a minimum of 50-80% of the ground floor façade area. Second level and above windows should not exceed 50% of the total exterior wall surface.

[4] Ground floor windows openings for formerly residential structures converted to non-residential use should maintain the size, shape, and location of existing window openings.

[5] Windows should be recessed from the surrounding exterior wall and finished with architecturally appropriate trim and sill details.

(d) Non-Residential Utilities and Services

[1] For new construction of non-residential use structures, the burying of utilities lines is strongly encouraged whenever possible

[2] Locate refuse and recycling container enclosures in rear or interior side yards or parking lot landscape areas to minimize their visibility from adjacent uses, streets and upper story uses

[3] Refuse and recycling collection areas and enclosures should be six feet in height, shall be architecturally compatible with the overall design theme of adjacent buildings, using similar durable and non-combustible materials, textures, colors, and form

[4] The use of trellis or other substantial roof structures should be incorporated into refuse and recycling enclosure's design where possible.

[5] Refuse recycling collection areas and enclosures should be located for the convenience of users and refuse collection agencies while maintaining concealment from public right-of-way.

(e) Non-Residential Energy Conservation

[1] Building and related structures are encouraged to provide ample shade and air circulation for pedestrian users in the hot summer months, as well as thermal mass walls for natural heating in the cool winder months. This can most easily be accomplished by planting shade trees in the utility strip and on the south and west sides of the structure.

[2] All buildings are encouraged to incorporate energy-efficient technologies, e.g., photo voltaic solar energy collection panels, and construction systems and technologies to provide the highest possible energy efficient buildings

[3] The use of energy efficient light-bulbs is encouraged

(f) Non-Residential Structure Orientation: A key ingredient for creating a pedestrian oriented development in the guidelines is the creation of distinctive buildings within the core commercial/retail parcels. These buildings provide opportunities for retail, office, and other facilities to co-exist in close proximity allowing residents to accomplish daily routines as a pedestrian rather than a motorist.

[1] Non-residential buildings should have pedestrian access and visual orientation to the adjacent roadways and/or open-space features

[2] Parking should be to the rear of the site with primary entrances oriented to public roadway. A secondary entrance off the rear parking lot is encouraged. This rear entrance is often an ideal location for an ADA accessible entrance.

[3] Special building configurations should be considered for corner lots because they have street frontage on two sides. It is important to address both the streets on which the building abuts. Orientation of the primary façade should take into account the location of entries on adjacent lots and

lots across the street, as well as adjacencies may access either street, but orientation to the minor street is preferred.

[4] Commercial buildings should be oriented to maximize pedestrian linkages to adjacent transit stops.

(g) Non-residential Circulation and Parking

[1] Surface parking lots should be located away from the adjacent roadways and to the rear of the buildings

[2] All parking shall be in accordance with the City of Binghamton Zoning Code

[3] In order to help reduce storm water run-off, the use of permeable surface materials as approved by the City of Binghamton Engineering Department is encouraged.

(h) Non-Residential Street Tree Planting

[1] The intent is to create a heavy "canopy" over the sidewalk and to provide a visual buffer between residential and non-residential uses. Yard trees should be located a minimum of 4'0" and a maximum 6'0" from the sidewalk; in utility strips, trees should be located in the middle of the strip between the street curb and the sidewalk

[2] Utility strips are located between the street curb and sidewalk within the public roadway right-of-way. These areas should be planted with grass. The planting of street trees is strongly encouraged

[3] Tree species within utility strips should be installed per the recommendation of the City of Binghamton Shade Tree Commission

[4] Tree placement should be coordinated with streetlights, utilities, and entry drives.

[5] Trees should be located as to preserve sight lines at intersections and near signage.

(i) Non-Residential Lighting: The lighting within the guidelines will have a major impact on the overall aesthetics and safety of the community. The lighting standards are intended to ensure a consistent level of light throughout the project area without creating a monotonous effect. Each light standard and lamp type should be selected within the context of the entire community design objectives and with specific regard to the functional demands for its location. These lighting standards will provide a hierarchy of lighting effects which contribute to the overall cohesiveness of the community image. When used together with the other development guidelines, these standards will unify the project area.

[1] Light sources with a white color within the color temperature range of 2,700-4,500 degrees Kelvin are encouraged. Golden, yellow, blue, or reddish light sources should not be used. Blinking lights are not permitted.

[2] Light standards should be attractive to look at during daylight hours.

[3] Light sources should be located and directed to minimize glare to adjacent uses and adjacent roadways.

[4] Shoebox style light fixtures are prohibited.

[5] Light standards should be located in planters on grade where possible. Large concrete footings that exceed 12 inches above grade are discouraged.

[6] Energy saving devices such as solar sensors and timers are strongly encouraged. The use of energy efficient bulbs is encouraged.

[7] Light fixtures should not project above the façade or roofline of the building

[8] These guidelines do not apply to seasonal decorative lighting and emergency lighting, except that such lighting should not result in a disabling glare as set forth in §410-24(J) of the Zoning Code.

[9] All exterior lighting must in all other respects conform to §410-24(J) of the Zoning Code.

(6) General Provisions. These Guidelines shall not supersede any other applicable City of Binghamton Codes, Ordinances, or General Laws. All projects located within the Urban Village shall comply with any other applicable City of Binghamton Codes, Ordinances, or General Laws.

N. Evidence of conformity. With respect to any application for a building permit, Planning Commission Review and Approval of a special use permit and site plan, Administrative Planning Review, or variance and before a certificate of occupancy can be issued for any use, the Supervisor of Building and Construction or the Zoning Officer may require the applicant, at his or her own expense, to provide such evidence as he or she may deem necessary to determine whether or not the proposed use will conform to the performance standards set forth above and, in connection therewith, the Supervisor of Building and Construction or the Zoning Officer may obtain expert advice at the expense of the applicant, and payment in advance of the amount of such expense shall be a condition of further consideration of the application. Where appropriate, the Supervisor of Building and Construction or the Zoning Officer may require the installation, maintenance and operation by the applicant, at applicant's expense, of continuous recording instruments to demonstrate the operation or effect of operations of any machines, or devices used to control or lessen noise, vibration, glare, air pollution, water pollution, fire hazards or safety hazards.

O. Zoning Board Appeals of action. Upon receipt of the Zoning Officer's, or Supervisor of Building and Construction's report on a violation of performance standards, the Zoning Board of Appeals shall hold a public hearing to consider the matter in accordance with § 410-94. Upon a finding of the Zoning Board of Appeals that a violation exists or that corrective action is necessary to prevent the recurrence of a violation, the operator of the violating facility shall be ordered to cease and desist; and all permits, zoning clearances of any other approvals for the operation shall be voided and terminated until such time as the corrective action is taken and such action approved by the Zoning Board of Appeals.

P. Tobacco Sales. The sale of tobacco and tobacco products (including but not limited to: cigarettes, cigars, pipe tobacco, chewing tobacco, and electronic cigarettes) is expressly prohibited within 1,000 feet of any property boundary of an existing Convenience Store or Smoke or Vape Shop, any public park, or any public or private elementary or secondary school, except upon appeal to the Common Council as provided herein.

(1) Common Council approval. Within 30 days, or such longer period as may be agreed upon by the applicant, of receipt and review of the written recommendations of the Planning Commission, the Common Council shall either deny the permit or, by ordinance duly adopted, approve the permit, with or without modifications to be

accepted by the applicant as a condition of such approval. The failure of City Council to act within the aforementioned time period shall be deemed a final denial.

(2) Review by the Planning Commission. Before consideration of the Common Council, an applicant shall first submit an application to the Planning Commission for review, in accordance with the provisions of Articles VIII and IX of this chapter. The Planning Commission shall consider the application at the next available regularly scheduled meeting and thereafter forward to the Common Council its written recommendation within 30 business days following such meeting. In its report, the Planning Commission may recommend approval or denial

(3) The provisions of this section shall not preclude the maintenance, and occupancy of any tobacco retailer that existed lawfully prior to the effective date of this Section. Such uses shall be subject to the nonconforming use regulations in Article XII.

Q. Vehicle Fuel Stations. No Vehicle Fuel Station shall be established abutting a residential property or zoning district, within 1,000' of an existing Vehicle Fuel Station, or within 1,000' of a school or hospital, except upon appeal to the Common Council as provided herein.

(1) Review by the Planning Commission. Before consideration of the Common Council, an applicant shall first submit an application to the Planning Commission for review, in accordance with the provisions of Articles VIII and IX of this chapter. The Planning Commission shall consider the application at the next available regularly scheduled meeting and thereafter forward to the Common Council its written recommendation within 30 business days following such meeting. In its report, the Planning Commission may recommend approval or denial

(2) Common Council approval. Within 30 days, or such longer period as may be agreed upon by the applicant, of receipt and review of the written recommendations of the Planning Commission, the Common Council shall either deny the permit or, by ordinance duly adopted, approve the permit, with or without modifications to be accepted by the applicant as a condition of such approval. The failure of City Council to act within the aforementioned time period shall be deemed a final denial.

(3) The provisions of this section shall not apply to Vehicle Fuel Stations that exclusively sell electricity for the charging of electric vehicles, and do not provide gasoline or any other type of motor vehicle fuel.

(4) The provisions of this section shall not preclude the maintenance and occupancy of any vehicle fuel station that existed lawfully prior to the effective date of this Section. Such uses shall be subject to the nonconforming use regulations in Article XI.

ARTICLE VI, Residential Districts

§ 410-25. Intent. [Amended 8-7-2013 by Ord. No 13-49]

The intent of this Article VI is to identify the types of land uses which are permitted in the three residential zoning districts in the City of Binghamton. A list has been created which specifies the zoning district(s) in which each land use is allowed. Certain uses are permitted by right, while others require a special use permit from the Planning Commission. All uses are subject to the Article IX Site Plan Review and Approval. Bulk and density regulations for each zoning district are also established.

§ 410-26. General provisions. [Amended 8-7-2013 by Ord. No 13-49]

A. Schedule of regulations. Regulations relating to land uses in residential districts are set forth in Schedule I (§ 410-27). Regulations relating to lot size, setbacks, and similar bulk requirements are set

forth in Schedule IA (§ 410-28). Regulations relating to off-street parking requirements are set forth in Schedule III (§ 410-53). Said schedules are hereby adopted and, with all explanatory matter thereon, are hereby made part of this chapter and included herewith.

B. Excluded uses or activities. A land use which is not set forth in Schedule I (§ 410-27) is not permitted in residential districts in the City of Binghamton. Notwithstanding the above, unlisted uses which are interpreted by the Zoning Board of Appeals to be similar to those which are listed by district in Schedule I (§ 410-27) may be processed in accordance with the appropriate provisions of this chapter. (See Article XIV.)

C. Site plan approval. When Schedule I (§ 410-27) specifies that Planning Commission Review and Approval of a special use permit is required for a land use in a residential district, a building permit shall not be issued for such land use until a site plan has been approved in accordance with the provisions of Articles VI and IX of this chapter.

D. Any dwelling unit within any residential district must meet the definition of a family or the equivalent of a family (See definitions in § 410-5.) E. Accessory uses are permitted and regulated pursuant to §410-19 of this chapter.

§ 410-27. Schedule I: Land Uses in Residential Zoning Districts. [Amended 3-2-09 by Ord. No. 9 2009; Amended 8-7-2013 by Ord. No 13-49; Amended 2-3-2016 by Local Law 16-02]

The following uses are permitted in residential zoning districts:

The following uses are permitted in residential zoning districts:

A. R-1 Residential Single-Unit Dwelling District.

1. Permitted by right, subject to Article IX: Detached One-Unit Dwelling, no more than five bedrooms Garden, community or neighborhood

2. Permitted with Planning Commission Review and Approval of a special use permit:

Community center, subject to 410-29B
Condominium, subject to 410-29D
Dwelling, manufactured home, subject to 410-29C
Dwelling, four or five bedrooms, subject to 410-41A(1)
Educational institution, subject to 410-29A & B
Place of worship, subject to 410-29Bf
Townhouses, up to three attached

B. R-2 Residential One- and Two-Unit Dwelling District.

1. Permitted by right, subject to Article IX:

Dwelling, one or two units, no more than four bedrooms per unit
Garden, community or neighborhood
Townhouses, up to three attached

2. Permitted with Planning Commission Review and Approval of a special use permit

Community center, subject to 410-29B
Condominium, subject to 410-29D
Dwelling, manufactured home, subject to 410-29C
Dwelling, four or five bedrooms, subject to 410-41A(1)
Educational institution, subject to 410-29A & B

Place of worship, subject to 410-29B
Townhouses, up to six attached

C. R-3 Residential Multi-Unit Dwelling District.

1. Permitted by right, subject to Article IX:

Dwelling, one to three units, no more than four bedrooms per unit
Garden, community or neighborhood
Townhouses, up to four attached

2. Permitted with Planning Commission Review and Approval of a special use permit

Community center, subject to 410-29B
Dwelling, manufactured home, subject to 410-29C
Dwelling, multiple-unit, including Condominiums, subject to 410-41A(1)
Congregate living
Educational institution, subject to 410-29A & B
Nursing home
Overnight lodging, subject to 410-29A
Parking, ancillary, subject to 410-55
Parking, commercial, subject to 410-55
Place of worship, subject to 410-29B
Townhouses, five or more attached

§ 410-27.1 Urban Village Overlay District [Added 12-19-11 by LL No. 11-5]

UVO Urban Village Overlay District. The use permitted by right and with Planning Commission approval in the underlying zoning districts are permitted in the Urban Village Overlay District, subject to the same reviews and conditions; additionally, uses within the Urban Village Overlay District shall be subject to the Urban Village Overlay District design guidelines, as listed in §410-24 above.

§ 410-28. Schedule IA: Bulk Requirements in Residential Zoning Districts.

The following bulk requirements apply to residential zoning districts:

	R-1	**R-2**	**R-3**
Min. lot area (square feet)			
One unit	2,500	2,500	2,500
Two units	-	2,500	2,500
Three units	-	-	2,500
Multiple-unit	-	-	1,500
Townhouse (per unit)	1,500	1,500	5,000
All other permitted uses	2,500	2,500	2,500
Min. lot width (feet)			
One unit	50	50	50
Two units	-	50	50
Three units	-	-	60
Multiple-unit	-	-	80
Townhouse (per unit)	20	20	20
All other permitted uses	50	50	50
Front setback (feet)	15	10	5
Rear setback (feet)	15	15	20
One side minimum / total side setback (feet)	5 / 15	5 / 15	5 / 15
Maximum lot coverage	50%	70%	90%
Maximum building height (feet)	35	35	60

§ 410-29. Special conditions for certain land uses in residential districts. [Amended 3-2-09 by Ord. No. 9-2009; Amended 8-7-2013 by Ord. No 13-49; Amended 2-3-2016 by Local Law 16-02]

The following are special conditions that apply to certain land uses as noted in §410-27, above:

A. A landscape buffer, pursuant to §410-18, shall be provided along all side and rear property lines.

B. No building or structure shall be located less than 30 feet from an abutting residential district or lot on which a residential use is established.

C. A permanent foundation shall be installed.

D. Condominiums. In the R-1 and R-2 districts, condominium developments are permitted, subject to a special use permit, when each unit meets the height, setback, and parking requirements applicable to a Single Unit Dwelling in the district. In the case of attached townhouse-style condominiums, the Townhouse setback requirements shall apply. In all other districts, the requirements for multi-unit dwellings shall apply to condominium developments

ARTICLE VII, Commercial and Industrial Districts

§ 410-30. Intent [Amended 8-7-2013 by Ord. No 13-49.]

The intent of this Article VII is to identify the types of land uses which are permitted in the commercial and industrial zoning districts in the City of Binghamton. A list has been created which specifies the zoning district(s) in which each land use is allowed. Certain uses are permitted by right, while others require a special use permit from the Planning Commission. All uses are subject to the Article IX Site Plan Review and Approval. Bulk and density regulations for each zoning district are also established.

§ 410-31. General provisions [Amended 8-7-2013 by Ord. No 13-49.]

A. Schedule of regulations. Regulations relating to land uses in commercial and industrial districts are set forth in Schedule II (§ 410-32). Regulations relating to lot size, yard setbacks, lot coverage, and similar bulk requirements for nonresidential uses are set forth in Schedule IIA (§ 410-33). Regulations relating to off-street parking requirements are set forth in Schedule III (§ 410-53). Said schedules are hereby adopted and, with all explanatory matter thereon, are hereby made part of this chapter and included herewith.

B. Excluded uses. Any land use which is not set forth in Schedule II (§ 410-32) is not permitted in a commercial or industrial district in the City of Binghamton. Notwithstanding the above, unlisted uses which are interpreted by the Zoning Board of Appeals to be similar to those which are listed in said Schedule II (§ 410-32) may be processed in accordance with the appropriate provisions of this chapter.

C. Site plan approval. When Schedule II (§ 410-32) specifies that Planning Commission Review and Approval of a special use permit is required for a land use in a commercial or industrial district, a building permit shall not be issued for such land use until a site plan has been approved in accordance with the provisions of Articles VII and IX of this chapter.

D. Accessory uses are permitted and regulated pursuant to §410-19 of this Chapter.

§ 410-32. Schedule II: Land Uses in Commercial and Industrial Zoning Districts. [Amended 8-7 2013 by Ord. No 13-49; Amended 10-23-2013 by Ord. No 13-77; Amended 2-3-2016 by Local Law 16 02, Amended 2-11-2026 by Ord. No 26-12]

A. C-1 Service Commercial District.

1. Residential uses shall not be located within the first thirty (30) feet of the ground floor of any building, measured from the front façade of the building towards the rear, with the exception of incidental pedestrian entrances that lead to a dwelling elsewhere in the building. Notwithstanding the above, residential uses shall be permitted anywhere on the ground floor of existing building

originally constructed as dwellings, as determined by the Planning Department and the Office of Building and Construction.

2. Permitted by right, subject to Article IX:

Animal care
Automatic teller machine subject to 410-34A, C, & F
Community center
Day care
Dwelling, one to three units, no more than four bedrooms per unit
Eating and drinking establishment
General retail
Greenhouse/nursery
Industry, light
Medical office
Nursing home
Office
Personal service
Recreation, indoor
Research and development
Retail food sales
Studio/ art gallery
Vehicle sales/rental, subject to 410-55 and 410-34A, I, & K

3. Permitted with Planning Commission Review and Approval of a special use permit:

Cannabis Business, On-Site Consumption
Cannabis Business, Retail
Convenience store
Crematory
Drive-through business, subject to 410-34A, B, & F
Dwelling, multiple-unit, subject to 410-41A(1)
Educational institution
Event venue
Congregate living
Hospital, medical center, subject to 410-34A & J
Overnight lodging
Parking, ancillary, subject to 410-55
Parking, commercial, subject to 410-55
Pawn shop
Place of worship
Recreation outdoor
Self-service storage warehouse, subject to 410-34A & K
Smoke or Vape Shop
Social services
Telecommunications facility, subject to 410-42
Transportation service
Vehicle fuel station, subject to 410-34A, B, F, H, & I
Vehicle repair/service, subject to 410-34A, H, & I
Warehouse and distribution, subject to 410-34A, E, & H

B. C-2 Downtown Business District.

1. Residential uses shall not be located within the first thirty (30) feet of the ground floor of any building, measured from the front façade of the building towards the rear, with the exception of incidental pedestrian entrances that lead to a dwelling elsewhere in the building. Notwithstanding the above, residential uses shall be permitted anywhere on the ground floor of existing building

originally constructed as dwellings, as determined by the Planning Department and the Office of Building and Construction.

2. Permitted by right, subject to Article IX:

Animal care
Automatic teller machine, subject to 410-34A, C, & F
Community center
Day care
Dwelling, one to three units, no more than four bedrooms per unit
Eating and drinking establishment
General retail
. Greenhouse/nursery
Medical office
Nursing home
Office
Personal service
Recreation, indoor
Research and development
Retail food sales
Studio/ art gallery

3. Permitted with Planning Commission Review and Approval of a special use permit:

Cannabis Business, On-Site Consumption
Cannabis Business, Retail
Drive-through business, subject to 410-34A, B, & F
Dwelling, multiple-unit, subject to 410-41A(1)
Educational institution
Event venue
Congregate living
Hospital, medical center, subject to subject to 410-34A & J
Industry, light
Overnight lodging
Parking, ancillary, subject to 410-55
Parking, commercial, subject to 410-55
Place of worship
Recreation, outdoor
Social services
Telecommunications facility, subject to 410-42
Warehouse and distribution, subject to 410-34A, E, & H

C. C-3 Medical District.

1. Permitted by right, subject to Article IX:

Animal care
Automatic teller machine, subject to 410-34A, C, & F
Community center
Day care
Dwelling, one to three units, no more than four bedrooms per unit
Garden, community or neighborhood
Medical office
Nursing home
Personal service
Recreation, indoor

Research and development
Townhouses, two or three attached

2. Permitted with Planning Commission Review and Approval of a special use permit:

Dwelling, multiple-unit, subject to 410-41A(1)
Educational institution
Congregate living
Hospital, medical center
Parking, ancillary, subject to 410-55
Parking, commercial, subject to 410-55
Place of worship
Social services
Telecommunications facilities, subject to 410-42
Townhouses, four or more attached

D. C-4 Neighborhood Commercial District.

1. Residential uses shall not be located within the first thirty (30) feet of the ground floor of any building, measured from the front façade of the building towards the rear, with the exception of incidental pedestrian entrances that lead to a dwelling elsewhere in the building. Notwithstanding the above, residential uses shall be permitted anywhere on the ground floor of existing building originally constructed as dwellings, as determined by the Planning Department and the Office of Building and Construction.

2. Permitted by right, subject to Article IX:

Animal care
Automatic teller machine, subject to 410-34A, C, & F
Community center
Day care
Dwelling, one to three units, no more than four bedrooms per unit
Eating and drinking
Garden, community or neighborhood
General retail Greenhouse/nursery
Medical office
Office
Personal service
Recreation, indoor

3. Permitted with Planning Commission Review and Approval of a special use permit:

Cannabis Business, On-Site Consumption
Cannabis Business, Retail
Convenience store
Crematory
Drive-through business, subject to 410-34A, B, & F
Dwelling, multiple-unit, subject to 410-41A(1)
Educational institution
Event venue
Congregate living
Hospital, medical center, subject to 410-34A & J
Overnight lodging
Parking, ancillary, subject to 410-55
Parking, commercial, subject to 410-55
Pawn shop
Place of worship

Recreation, outdoor
Smoke or Vape Shop
Social services
Telecommunications facilities, subject to 410-42
Townhouses, four or more attached
Transportation service
Vehicle fuel station, subject to 410-34A, B, F, H, & I
Vehicle repair/service, subject to 410-34A, H & I
Warehouse and distribution, subject to 410-34A, E, & H

E. C-5 Neighborhood Office District.

1. Permitted by right, subject to Article IX:

Community center
Day care Dwelling, one to three units, no more than four bedrooms per unit
Garden, community or neighborhood
General retail Greenhouse/nursery
Medical office
Nursing home
Office
Personal service
Studio/ art gallery
Townhouses, two or three attached

2. Permitted with Planning Commission Review and Approval of a special use permit:

Animal care
Automatic teller machine, subject to 410-34A, C, & F
Dwelling, multiple-unit, subject to 410-41A(1)
Eating and drinking establishment, subject to 410-34B
Educational institution, subject to 410-34B
Congregate living
Parking, ancillary, subject to 410-55
Parking, commercial, subject to 410-55
Place of worship
Recreation, indoor
Townhouses, four or more attached

F. C-6 Limited Neighborhood Commercial District.

1. Permitted by right, subject to Article IX:

Community center
Day care Dwelling, one to three units, no more than four bedrooms per unit
Garden, community or neighborhood
General retail Greenhouse/nursery
Medical office
Nursing home
Office
Personal service
Retail food sales
Studio/ art gallery
Townhouses, two or three attached

2. Permitted with Planning Commission Review and Approval of a special use permit:

Animal care
Automatic teller machine, subject to 410-34A, C, & F
Convenience store
Dwelling, multiple-unit, subject to 410-41A(1)
Eating and drinking establishment, subject to 410-34B
Educational institution, subject to 410-34B
Event venue
Congregate living
Overnight lodging
Parking, ancillary, subject to 410-55
Parking, commercial, subject to 410-55
Place of worship
Recreation, indoor
Townhouses, four or more attached
Vehicle fuel station, subject to 410-34A, B, F, H, & I

I. -1 Urban Business Park District.

1. Permitted by right, subject to Article IX:

Eating and drinking establishment
Industry, light
Medical office
Office
Personal Service
Recreation, indoor
Research and development
Studio/ art gallery
Transportation service

2. Permitted with Planning Commission Review and Approval of a special use permit

Animal care
Cannabis Business, Industrial
Cannabis Business, Retail
Dwelling, multiple-unit, subject to 410-41 A(1)
Educational institution
Hospital, medical center, subject to 410-34A & J
Overnight lodging
Parking, ancillary, subject to 410-55
Parking, commercial, subject to 410-55
Recreation, outdoor
Self-service warehouse, subject to 410-34A, & K
Social services
Solar energy system, subject to 410-34A, B, E,& J
Telecommunications facility, subject to 410-42
Warehouse and distribution, subject to 410-34A, E, & H

H. I-2 Light and Medium Industrial District.

1. Permitted by right, subject to Article IX:

Animal care
Automatic teller machine, subject to 410-34A, C, & F
Eating and drinking establishment
General retail
Greenhouse/nursery

Industry, light
Medical office
Office,
Personal service
Recreation, indoor
Research and development
Studio/ art gallery
Transportation service
Vehicle repair/service, subject to 410-34A, H & I

2. Permitted with Planning Commission Review and Approval of a special use permit

Adult entertainment, subject to 410 -34L
Cannabis Business, Industrial
Cannabis Business, Retail
Crematory
Drive-through business
Educational institution
Overnight lodging
Parking area, ancillary, subject to 410-55
Parking, commercial, subject to 410-55
Recreation outdoor
Self-service storage warehouse, subject to 410-34A & K
Smoke or Vape Shop
Solar energy system, subject to 410-34A, B, E,& J
Telecommunications facility, subject to 410-42
Vehicle fuel station, subject to 410-34A, B, F, H, & I
Vehicle sales/rental, subject to 410-55 and 410-34A, I, & K
Warehouse and distribution, subject to 410-34A, E, & H
Waste-related services, subject to 410-34A, E, & L

I. I-3 Heavy Industrial District.

1. Permitted by right, subject to Article IX:

Animal care
Automatic teller machine, subject to 410-34A, C, & F
Eating and drinking establishment
General retail
Greenhouse/nursery
Industry, light
Medical office
Research and development
Transportation service
Vehicle repair/service, subject to 410-34A, H, & I

2. Permitted with Planning Commission Review and Approval of a special use permit:

Adult entertainment
Cannabis Business, Industrial
Crematory
Drive-through business, subject to 410-34A, B, & F
Educational institution
Industry, general, subject to 410-34B, G & H
Office
Parking, ancillary, subject to 410-55

Parking, commercial, subject to 410-55
Recreation, indoor
Recreation, outdoor
Self-service storage warehouse, subject to 410-34A & K
Solar energy system, subject to 410-34A, B, E, & J
Telecommunications facility, subject to 410-42
Vehicle fuel station, subject to 410-34A, B, F, H & I
Vehicle sales/rental, subject to 410-55 and 410-34A, I, & K
Warehouse and distribution, subject to 410-34A, E, & H
Waste-related services, subject to 410-34A, E, & L

§ 410-33. Schedule IIA: Bulk Requirements in Commercial and Industrial Zoning Districts.

The following bulk requirements apply to commercial and industrial zoning districts:

	C-1	C-2	C-3	C-4	C-5	C-6
Min. lot area (square feet)	0	0	0	0	2,500	2,500
Min. lot width (feet)	0	0	50	0	50	50
Min. front setback (feet)	0	0	5	0	5	5
Min. side setback (feet)	0	0	10	0	5	5
Min. rear setback (feet)	20	20	20	20	20	20
Max. lot coverage	90%	95%	90%	90%	90%	90%
Max. building height (feet)	75	120	75	60	45	45
	I-1		**I-2**		**I-3**	
Min. lot area (feet)	6,000		6,000		6,000	
Min. lot width (feet)	50		50		50	
Min. front setback (feet)	5		20		25	
Min. side setback (feet)	10		10 + 5 per 15 feet of building height		20 + 5 per 15 feet of building height	
Min. rear setback (feet)	20		20		25	
Max. lot coverage	90%		75%		75%	
Max. principal building height (feet)	75		75		75	

§410-34. Special conditions for certain land uses in commercial and industrial zoning districts. [Amended 7-20-09 by Ord. No. 23-2009; Amended 8-7-2013 by Ord. No 13-49]

The following are special conditions that apply to certain land uses as noted in §410-32, above:

A. A landscape buffer, pursuant to §410-18, shall be provided along all public streets.

B. A landscape buffer, pursuant to §410-18, shall be provided along all property lines abutting a residential districts or property.

C. A landscape buffer, pursuant to §410-18, shall be provided along all side and rear property lines.

D. A landscape buffer, pursuant to §410-18, shall be provided along all property lines.

E. Solid fencing, pursuant to §410-14, shall be provided along all side and rear property lines.

F. Standing vehicles shall not block any public sidewalk or occupy space on a public street.

G. All outside storage of equipment, materials, or vehicles shall be enclosed by solid fencing, pursuant to §410-14.

H. No outside storage of equipment, materials, or vehicles is permitted in the required front and side setback areas.

I. No outdoor storage of tires shall be permitted at any time.

J. No structure shall be located less than 30 feet from an abutting residential district or lot on which a residential use is established.

K. No outside display of sale or rental items shall be located in any required front setback area.

L. No such facility shall be located less than 500 feet from the boundary of any residential district or from a lot on which a residential use, a place of worship, a school, or a public park is established regardless of the zoning district.

ARTICLE VIII, Planning Commission Review and Approval Requirements

§ 410-35. Intent.

The intent of this Article VIII is to set forth supplemental regulations, procedures and conditions which shall apply to certain actions, pursuant to § 410-45A, in the City of Binghamton. No new construction (with the exception of detached one, two, and three unit houses), nor any land use requiring Planning Commission Review and Approval of a site plan or special use permit is permitted by right and such is considered to be sufficiently distinctive in terms of its nature, location, and potential impact on the general welfare of the surrounding area as to warrant special review and evaluation of each individual permit application.

§ 410-36. Applicability. [Amended 3-2-09 by Ord. No. 9-2009; Amended 8-7-2013 by Ord. No 13-49]

A. Planning Commission Review and Approval pursuant to § 410-39 of this Article VIII is required for all actions listed in § 410-45A. No building permit shall be authorized or issued by the Supervisor of Building, Construction, or their designee for any use which requires Planning Commission Review and Approval except upon determination of conformity with plans approved by the Planning Commission.

B. Planning Commission approval of a site plan or special use permit for a specific land use is not transferable and does not apply to any other land use

§ 410-37. Jurisdiction.

Building permits and certificates of occupancy associated with any action listed in § 410-45A shall be authorized by the Planning Commission, except for those uses which require City Council authorization, as specifically set forth in § 410-29 and § 410-34 of this chapter.

§ 410-38. Existing uses.

Where the use of a building, structure or lot lawfully exists on the effective date of this chapter, or any amendment thereto, and is classified in Schedule I (§ 410-27) or II (§ 410-32) as a use requiring a special use permit, such use shall continue as a legally preexisting use. Any expansion or major alteration of such legally preexisting use shall, however, require Planning Commission Review and Approval in accordance with the provisions of § 410-39 of this chapter and shall comply with the applicable requirements of this Article VIII.

§ 410-39. Procedure. [Amended 3-2-09 by Ord. No. 9-2009; Amended 8-7-2013 by Ord. No. 13-49; Amended 10-4-2017 by Ord. No. 17-59]

A. Application. Application for Planning Commission Review and Approval shall be made to the Planning Department for processing.

B. Material to be submitted. An application for Planning Commission Review and Approval shall be accompanied by a site plan and any other written and graphic material which will best support and illustrate the request. Processing of the application by the Planning Department may be delayed until adequate descriptive and illustrative material is provided. At a minimum, the information specified as required on the application for Planning Commission Review and Approval shall be submitted.

C. Review. The Planning Department shall review the Planning Commission Review and Approval application for completeness and shall comment as to the planning and environmental impact of the proposal. The completed application, the staff report, and any other relevant materials shall be transmitted to the Planning Commission for action.

D. Public hearing and public notices.

1. Public hearing. The Planning Commission shall hold a public hearing on the Planning Commission Review and Approval application within 45 days from the date a complete application is received by the Planning Department and the Planning Commission completes the required State Environmental Quality Review. The Planning Commission may, but it not required to, waive a public hearing for accessory uses, accessory structures, or proposals that are not subject to State Environmental Quality review according to 6 CRR-NY 617.5 of the New York States Codes, Rules and Regulations, e.g. a Type II action. Notwithstanding the above, a public hearing may not be waived for any application requiring a special use permit.

2. Public Notice by Planning Department. Upon receipt of payment of a notification fee, as set by the City Council, from an applicant, the Planning Department shall provide public notice to the official newspaper of the City of Binghamton (the Press and Sun Bulletin) and to complete required notice mailings.

a. Newspaper. Notice of any public hearing shall be published in the official newspaper of the City of Binghamton (the Press and Sun Bulletin) at least 7 calendar days prior to the date of the hearing, excluding the hearing date.

b. Mailings. Additionally, at least 7 calendar days prior to the public hearing, notice thereof shall be sent by U.S. mail to the owners of record and all other properties within a distance of 200 feet from the boundary of the subject property and to the regional state park commission when the subject property is within 500 feet of any state park or parkway.

c. Public notice sign posted by Applicant. At least 7 calendar days prior to the public hearing, excluding the hearing date, a public notice sign shall be posted on the property by the applicant. The sign(s) shall contain information specific to the applicant's case, such as the time, date, and location of the hearing, the types of review required, and the proposed action. One sign shall be required for every 300 linear feet of property frontage. The sign(s) must be placed in either the front yard or a visible window when no front yard exists. If the property is a corner lot, one sign must be placed in each front yard.

d. Verification of notice. Verification of notice as required by this § 410-39D shall be prepared by the Planning Department at least 5 calendar days prior to the public hearing. Such verification shall consist of a statement from the Press and Sun Bulletin and a signed affidavit of notice prepared by the Planning Department.

e. Cost. The preparation of and cost of publication, mailing of required notice of public hearing, and sign posting shall be borne by the applicant.

E. Decision. Within 62 days from the date of the closing of a public hearing, a decision to approve, with or without modification, or disapprove the application for Planning Commission Review and Approval shall be made by the Planning Commission. Such 62-day period may be extended by

mutual consent of the applicant and the Planning Commission agreed to during a public meeting. Any decision of the Planning Commission shall include a brief written report outlining the major factors and conditions upon which such decision was made.

F. Referrals.

1. To the Broome County Planning Department.

a. Before taking final action on certain applications for Planning Commission Review and Approval, such applications shall be referred to the Broome County Planning Department for report and recommendation in accordance with § 239-l, -m, -n, and nn.

b. If the County Department of Planning fails to make such report within 30 days after receipt of a full statement of any matter referred by the Planning Department, action may be taken without such report in accordance with § 239 m(4)(b) of the General Municipal Law. However, any County Department of Planning report received after 30 days or such longer period as may have been agreed upon, but two or more days prior to final action by the referring body, shall be subject to the provisions of § 239-m(5). If the County Department of Planning disapproves of the proposal, or recommends modification thereof, the Planning Commission may act contrary to such disapproval or recommendation only by a vote of a majority plus one of all the members thereof. The Planning Commission shall file a report of its action with the County Department of Planning within seven days after such action is taken.

2. To Commission on Architecture and Urban Design (CAUD). Before taking final action on an application for a special permit involving a parcel or structure located in any designated historic district, or which is a duly designated landmark, or which is identified as an historic structure or site in an urban cultural park, such application shall be referred to CAUD for review and action in accordance with the provisions of the Landmarks Ordinance and the Historic Design Guidelines of the City of Binghamton.

G. Relevant comments. In reviewing an application for Planning Commission Review and Approval, it shall be the responsibility of the Planning Department to obtain relevant comments or approvals, in writing, from other City departments before a decision is made on such application.

H. Environmental assessment. In reviewing applications for Planning Commission Review and Approval, the environmental impact of such a proposed action shall be considered. Approval shall not be given until the requirements of SEQRA have been met.

I. Modifications. In reviewing an application for Planning Commission Review and Approval, the Planning Commission may modify or waive the requirements set forth in § 410-41 if this is deemed appropriate and in the best interest of the City, and if the spirit and intent of this chapter can be maintained.

J. Issuance of a building and use permit. When an application for Planning Commission Review and Approval has been approved in accordance with the provisions of this Article VIII, with or without modifications, a building and use permit shall be issued by the Supervisor of Building and Construction if there is also compliance with all other pertinent code requirements. All required modifications shall be conditions of the building and use permit.

K. Filing. The decision of the Planning Commission shall, within five days, be filed in the Office of the City Clerk, the Office of Building and Construction, and the Planning Department. A copy of the decision shall also be mailed physically or electronically to the applicant.

L. Term. Approval of an application for Planning Commission Review and Approval shall become void 12 months from the date of issuance unless substantial progress has been made on the project

described on such permit. Upon application, the approval may be renewed by the Planning Commission for an additional period of time deemed appropriate by the Commission. For unusually large and complex projects, the Planning Commission may determine that conditions warrant the waiving of this provision.

M. Violation of the above procedure or any provision, requirement or condition of Planning Commission Review and Approval shall be cause to deny or revoke a building permit or certificate of occupancy and shall be considered an offense and punishable by a fine of $250 for the first offense and $500 for any subsequent offense. Each day shall constitute a separate violation until the violation is corrected. In addition, the Zoning Officer or the Supervisor of Building and Construction may require the violation to be corrected. This section shall be enforced by the Zoning Officer or the Supervisor of Building and Construction and subject to the jurisdiction of the City Court of the City of Binghamton or the Broome County Supreme Court, as applicable.

§ 410-40. General requirements [Amended 8-7-2013 by Ord. No 13-49.]

A. Approval of any application for Planning Commission Review and Approval may be conditioned on the provision of adequate safeguards to protect the health, safety and general welfare of the public and to mitigate possible detrimental effects on adjacent property. To this end, before a Planning Commission Review and Approval application is approved, the Planning Commission shall determine that the following general requirements have been met, as well as any other applicable specific requirements for certain land uses as may be set forth in § 410-41 and Article IX of this chapter.

1. That the land use is to be designed, located and operated so as to protect the public health, safety and welfare.

2. That the land use will encourage and promote a suitable and safe environment for the surrounding neighborhood and will not cause substantial injury to the value of other property in the neighborhood.

3. That the land use will be compatible with existing adjoining development and will not adversely change the established character or appearance of the neighborhood.

4. That effective landscaping and buffering is provided as may be required by the Planning Commission. To this end, parking areas and lot area not used for structures or access drives shall be improved with grass, shrubs, trees and other forms of landscaping, the location and species of which shall be specified on the site plan.

5. That a site plan shall be approved in accordance with applicable provisions of Article IX of this chapter.

6. That adequate off-street parking and loading are provided in accordance with Article X of this chapter or other requirements as may be set forth in § 410-41 below, and ingress and egress to parking and loading areas are so designed as to minimize the number of curb cuts and not unduly interfere with traffic or abutting streets.

7. That site development shall be such as to minimize erosion and shall not produce increased surface water runoff onto abutting properties.

8. That existing public streets and utilities servicing the project shall be determined to be adequate.

9. That significant existing vegetation shall be preserved to the extent practicable.

10. That adequate lighting of the site and parking areas is provided and that exterior lighting sources are designed and located so as to produce minimal glare on adjacent streets and properties.

11. That the land use conforms with all applicable regulations governing the zoning district where it is to be located, and with performance standards set forth in § 410-24 of this chapter, except as such regulations and performance standards may be modified by the Planning Commission or by the specific provisions of § 410-41 below. Notwithstanding the above, the Planning Commission shall not be authorized to modify the land use regulations of this chapter.

B. If the conditions determined to be necessary by the Planning Commission to accomplish the purpose of this Article VIII cannot be complied with by the applicant for Planning Commission Review and Approval, the application shall be denied.

§ 410-41. Additional requirements for certain land uses. [Amended 7-20-09 by Ord. No. 23-2009; Amended 8-7-2013 by Ord. No 13-49]

A. In addition to the requirements specified in § 410-29, § 410-34, and § 410-40 above and the provision of Article IX of this chapter, which are applicable to all requests for Planning Commission Review and Approval of a site plan and special use permit, the specific requirements for certain land uses as set forth in this section shall be complied with. Additional requirements are as follows:

1. Conversion or Construction of Congregate Living Facilities or Dwelling Unit with Four Bedrooms.

a. Standard for Creating Congregate Living Facilities or Four Bedrooms per dwelling in a Multiple-Unit Dwelling. The conversion of existing buildings, or construction of new buildings, resulting in four or more bedrooms per dwelling unit can result in overcrowding and create adverse impacts to parking, open space and neighborhood character. These standards are intended to reduce the impact of these problems. Dwelling units and Congregate Living Facilities that do not meet the standards established in this section are not permitted.

[1] Minimum unit size. No unit conversion or construction shall be permitted in a dwelling or congregate living unit with less than 1,500 square feet of gross floor area.

[2] Minimum lot area requirements. No dwelling or congregate living unit conversion or construction shall be permitted in a dwelling unit if the lot on which the dwelling is located does not comply with the bulk requirements of the applicable zoning district.

b. These standards shall apply to all dwelling units with four bedrooms in Multiple-Unit Dwellings and to all Congregate Living units. Any residential unit with five to ten bedrooms shall be considered "Congregate Living" as defined in this chapter, except for a detached, single-unit dwelling with five bedrooms. Residential units with more than ten bedrooms or sleeping units are not permitted.

c. Notwithstanding anything herein to the contrary, the Supervisor of Building and Construction may waive the requirements for Planning Commission Review and Approval for the temporary use of dining room, den, or living room as a bedroom as may be medically necessary and prescribed by an attending physician.

§ 410-42. Telecommunications facilities and towers.

A. Intent. The City Binghamton recognizes the increased demand for wireless communications transmitting facilities and the need for the services they provide. Often these facilities require the construction of a communications tower and/or similar facilities. The intent of this section is to regulate the location, construction and modification of the telecommunications facilities in accordance with the guidelines of the Telecommunications Act of 1996 and other applicable laws by:

1. Accommodating the need for telecommunications towers/antennas while regulating their locations and number in the community.

2. Minimizing adverse visual impacts of these tower/antennas through proper siting, design and screening.

3. Preserving and enhancing the positive aesthetic qualities of the natural environment and current development in the City of Binghamton.

4. Providing for the health, safety and welfare of the community by avoiding potential damage or other negative impact to adjacent properties from power failure, failing ice, etc., through proper siting and engineering.

5. Requiring the joint use of towers when available and encouraging the placement of antennas on existing structures to minimize the number of such structures in the future.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

COLLOCATED/EXISTING STRUCTURE ANTENNA -- Any antenna that is attached to an existing telecommunications tower or other existing structure, pursuant to § 410-32.

NONCOLLOCATED/NEW STRUCTURE ANTENNA -- An antenna that will not be mounted on an existing structure as defined above or that is located 15 feet higher than the existing structure on which it is mounted. Such is permitted in accordance with the requirements set forth in this section.

C. Approvals and bulk requirements. No telecommunications facility shall be sited, located, constructed, erected or modified without the issuance of a building permit, tower special use permit and a site plan approval, and such other permits or approvals as are prescribed by this chapter.

1. Collocated/Existing structure antennas. A collocated or existing structure antenna is permitted without a tower special use permit upon issuance of a approval from the Planning Commission and a building permit. The applicant shall also be responsible for all reasonable costs incurred by the City in reviewing and analyzing an application, including but not limited to any engineering or technical reports or studies submitted by the applicant relative to its application and any legal fees relative thereto. The Planning Commission Review and Approval and building permit application shall include the following:

    a. A structural analysis/report, certified by a New York State licensed professional engineer or architect, verifying the ability of the structure to handle the antenna.

    b. Certification by a qualified radio frequency engineer (signed and sealed by a licensed professional engineer or architect) that the cumulative emissions from all antennas proposed to be located at the proposed site meet federal guidelines.

    c. The height of the new antenna shall extend no more than 15 feet above the height of the existing structure.

    d. The antenna and any mounting structure and related equipment shall be integrated into said structure in such a manner as to minimize its visual impact to the greatest extent practicable.

2. Noncollocated/New structure antennas.

    a. A noncollocated or new structure antenna is permitted with the issuance of a tower special use permit, an approval from the Planning Commission and a building permit. No application for a noncollocated or new structure antenna shall be considered complete unless and until the applicant shall have submitted a

report that establishes to the satisfaction of the City of Binghamton Planning Commission the following:

[1] That the applicant is required to provide service to locations which it is not able to serve through existing facilities which are located either within or outside of the City of Binghamton, showing the specific locations and/or areas the applicant is seeking to serve.

[2] The report shall set forth an inventory of existing facilities and/or structures, within or outside of the City, which might be utilized or modified in order to provide coverage to the locations the applicant is seeking to serve and shall include a report on the possibilities and opportunities for collocation as an alternative to a new site. The applicant must demonstrate that the proposed facility cannot be accommodated on any such existing facility or structure either within or outside of the City of Binghamton due to one or more of the following reasons:

[a] The proposed equipment would exceed the existing reasonably potential structural capacity of existing facilities or structures within or outside of the City, considering existing and planned use for those facilities or structures.

[b] The existing or proposed equipment would cause interference with other existing or proposed equipment that could not reasonably be mitigated or prevented.

[c] Said existing facilities or structures do not have space on which the proposed equipment can be placed so it can function effectively and reasonably, and/or the applicant has not been able, following good faith efforts, to reach an agreement with the owner(s) of such facilities or structures.

[d] Other reasons which make it impractical to locate or place the proposed equipment on said facilities or structures.

b. Bulk requirements. In all zoning districts new or relocated towers and antennas shall be set back from all property lines a minimum distance equal to their height (measured from their base). The Planning Commission may require an additional setback area in the case of guy wires, taking into consideration the length of the guy wires and the location of ground anchors.

3. All applications for telecommunications facilities in all zoning districts shall comply with the requirements of the State Environmental Quality Review Act (SEQRA).

D. Application for tower special use permit.

1. Application required. All applicants shall make a written application for special use permit to the City of Binghamton Planning Commission, through the City of Binghamton Planning Department.

2. Said application shall include:

a. A completed tower special use permit application form. In addition to the requirements set forth herein, all applications shall be processed in accordance with the requirements of § 410-40 of this chapter generally applicable to special use permits. The application shall be accompanied by the payment of the tower special use permit application fee as set from time to time by City Council (See Exhibit J). In addition to the tower special use permit application fee, the

applicant shall also be responsible for all reasonable costs incurred by the City in reviewing and analyzing an application, including but not limited to any engineering or technical reports or studies submitted by the applicant relative to its application and any related legal fees.

b. A special use permit application form, including long-form environmental assessment form (EAF). The application shall not be deemed complete unless accompanied by the propagation studies and search ring analysis described in Subsection D(2)(d) and (e) of this section.

c. A site plan, in the form and content acceptable to the City, prepared to scale and in sufficient detail and accuracy. In addition to the site plan requirements set forth in § 410-47, the site plan shall include:

[1] The exact location of the proposed tower, together with guy wires and ground anchors, if applicable, and any accessory structures.

[2] The maximum height of the proposed tower and antennas.

[3] A detail of tower type (monopole, guyed, freestanding or other).

[4] The color or colors of the tower.

[5] The location, type and intensity of any lighting on the tower and antennas.

[6] A survey, showing the boundary of the property and any easements, and a topographical map of the property with contour lines not exceeding two foot intervals.

[7] Proof of ownership of the land by the applicant or the landowner's consent if the applicant will not own the property. A copy of the final lease agreement, plus any amendments thereto, must also be provided if the applicant will not own the property.

[8] The location of all current and proposed structures on the property and all structures on any adjacent property within 50 feet of the property lines, together with the distance of these structures to the tower and antennas.

[9] Identification of adjacent landowners.

[10] The location, nature and extent of any proposed fencing and landscaping or screening. Existing on-site vegetation shall be preserved to the maximum extent possible.

[11] The location and nature of proposed utility easements and access roads, if applicable. The applicant must demonstrate that all private access roads will be maintained in order to ensure access by emergency vehicles on a year round basis.

[12] Building elevations of accessory structures or immediately adjacent buildings.

[13] A visual study showing where, within a two-mile radius, any portion of the proposed tower/antenna could be seen.

d. Before-and-after propagation studies prepared by a qualified radio frequency engineer (signed and sealed by a licensed professional engineer) demonstrating existing signal coverage resulting from the proposed facility.

e. Search ring analysis.

[1] A search ring analysis prepared by a qualified radio frequency engineer (signed and sealed by a licensed professional engineer) and overlaid on an appropriate background map demonstrating the area within which the telecommunications facility needs to be located in order to provide proper signal strength and coverage to the target cell.

[2] The applicant must be prepared to explain to the City of Binghamton Planning Commission how and why it selected the proposed site, discuss the availability (or lack of availability) of a suitable structure, within the search ring, which would have allowed for collocated antenna(s), and to what extent the applicant explored locating the proposed tower and antennas in a more desirable use district. Proof of correspondence with other telecommunications companies concerning collocation shall be part of this requirement.

3. The City of Binghamton Planning Commission, upon reviewing the application, may request reasonable additional visual, aesthetic and site information, as it deems appropriate on a case-by-case basis. Such additional information may include, among other things, visual impact statements, enhanced landscaping plans, line-of-sight drawings and/or visual simulations from viewpoints selected by the City staff.

4. For sites in close proximity to significant historical sites or important preservation/conservation areas, the City will request additional site plans and tower special use permit requirements. These requirements can include specially designed towers, additional screening, greater setbacks and improved landscaping. Siting in these areas should be avoided to the maximum extent possible.

E. Telecommunications facility permit standards.

1. The following criteria will be considered by the City prior to the approval/denial of a request for a tower special use permit. The criteria listed may be used as a basis to impose reasonable conditions on the applicant. Tower special use permits are not assignable and are not transferable, except upon approval of the Planning Commission.

2. The City may express a preference for an alternative site(s) and/or that the proposed telecommunications facility be located in a higher-intensity-use district or on higher intensity-use property, provided that there is a technologically feasible and available location. A guideline for the City's preference, from most desirable to least desirable zoning district/property, is as follows:

a. Property with an existing structure suitable for collocation.

b. Municipal or government-owned property.

c. Industrial, Heavy (I-3), Industrial, Light/Medium (I-2), Urban Business 1), Downtown Business (C-2), Service Commercial (C-1), Neighborhood Commercial (C-4), Medical (C-3), Neighborhood Office (C- 5), and Limited Neighborhood Commercial (C-6).

d. Residential Multi-Unit Dwelling (R-3), Residential One- and Two-Unit Dwelling (R-2), and Residential One & Two Family. Park (I

e. Sites which are within 500' of a local landmark, or historic building, structure, facility, site or district or prehistoric site that is listed on the National Register of Historic Places.

3. Any request by the City for information or technical analysis on a preferred alternate site shall be provided by the applicant at its sole cost and shall not unreasonably delay the application.

4. Aesthetics. Telecommunications facilities shall be located and buffered to the maximum extent that is practical and technologically feasible to help ensure compatibility with surrounding land uses. In order to minimize any adverse aesthetic effect on neighboring residences to the extent possible, the City of Binghamton Planning Commission may impose reasonable conditions on the applicant, including, but not limited to, the following:

    a. Tower height, including antennas, and design are matters of primary public concern. The Board may require a monopole or guyed tower (if sufficient land is available to the applicant) instead of a freestanding tower. Monopoles are a preferred design. The Board may impose reasonable restrictions and/or conditions on height. For example, the Board may reasonably determine that adverse impact upon the community will be best mitigated by requiring the applicant to construct multiple towers of lower height at several different locations to meet the applicant's demonstrated service coverage requirement(s) or that the tower height be reduced in the future if the applicant is unable to demonstrate a continuing need for the approval height in light of changes in the applicant's service coverage needs or technological advances.

    b. The Board may require reasonable landscaping consisting of trees or shrubs to screen the base of the tower and antennas and/or to screen the tower and any accessory structure or buildings to the extent possible from adjacent residential property. Existing on-site trees and vegetation shall be preserved to the maximum extent possible.

    c. The Board may require the applicant to show that it has made good-faith efforts to collocate on existing towers or other available and appropriate structures and/or to construct new towers near existing towers in an effort to consolidate visual disturbances. However, such request shall not unreasonably delay the application.

    d. The Board may require the tower and any antenna to be camouflaged; for example the Board may reasonably require the tower and antenna to appear to be a flagpole or tree.

    e. The type of finish, color and lighting shall be subject to City and/or Federal Aviation Administration (FAA) approval. The City may require lights to be shielded to minimize ground visual impact.

    f. No tower shall contain any signs or advertising devices. Notwithstanding foregoing, the Board may require appropriate signage indicating ownership of the facility and phone numbers to call in case of emergency.

    g. The applicant must submit a copy of its policy regarding collocation on the proposed tower with other potential future applicants. Such policy should allow collocation under the following conditions:

        [1] The new antenna(s) and equipment do not exceed structural loading requirements, interfere with City space used or to be used by the applicant

or pose any technical or radio frequency interference with existing equipment.

[2] The party desiring to collocate pays the applicant an appropriate and reasonable sum to collocate.

[3] The party desiring to collocate has a similar policy of collocation for the applicant.

h. All other uses ancillary to the antenna and associated equipment (including a business office, maintenance depot, vehicle storage, etc.) are prohibited from the site unless otherwise permitted in the zoning district in which the facility is located.

5. Radio frequency; inspections.

a. The City of Binghamton Planning Commission shall impose a condition on the applicant that the communications antenna will be operated only at Federal Communication Commission (FCC) designated frequencies and power levels and/or Environmental Protection Agency (EPA) technical exposure limits and may periodically require that the applicant provide competent documentation to support that maximum allowable frequencies, power levels and exposure limits for radiation will not be exceeded.

b. Unless otherwise preempted by federal or state law, the telecommunications facility shall be inspected every two years, at the applicant's expense, for radio emissions, and a copy of the report shall be promptly delivered to the Building Inspector. A licensed professional engineer specializing in electrical engineering with expertise in radio communications facilities shall perform radio emission inspections. The radio emission inspection shall describe the power density levels of the electromagnetic energy generated from the facility, including the cumulative effects of collocated antennas. In the event that the radio emission inspection indicates that the electromagnetic energy generated from the facility is above the allowable limits stated with applicable FCC or ANSI standards or other applicable federal or state guidelines in effect at the time of inspection, the applicant shall cease all use of the facility until such time as it proves, to the satisfaction of the Building Inspector or pertinent City consultant, that the power density levels of the electromagnetic energy to be generated at the facility are below the applicable standards.

6. Traffic, access, and safety.

a. A road turnaround and one parking space shall be provided to assure adequate year-round emergency and service access. Maximum use of existing roads, public or private, shall be made. The use of public roadways or road rights-of-way for the siting of a tower or antenna(s) accessory structures is prohibited.

b. All towers and ground anchors, if applicable, shall be enclosed by a fence not less than eight feet in height and otherwise sufficiently protected from trespassing or vandalism.

c. The applicant must comply with all applicable state and federal regulations, including, but not limited to, FAA and FCC regulations, and from time to time may be required to provide certification of such compliance.

d. All towers and antennas shall include anti-climbing devices for a minimum of 25 feet extending above ground level.

7. Removal of tower.

    a. The applicant shall agree to remove the tower and antenna if the telecommunications facility becomes obsolete or ceases to be used for its intended purpose for 12 consecutive months. The City of Binghamton Planning Commission shall require the applicant to provide an appropriate and adequate demolition bond for the purpose of removing the telecommunications facility and restoration of the land in case the applicant fails to do so as required above.

    b. The sufficiency of the demolition bond shall be confirmed at least every five years by analysis and report of the cost of removal and property restoration, which is to be performed by a New York State licensed professional engineer, the cost of same to be borne by the applicant. If the analysis and report determine that the amount of the bond in force is insufficient to cover the removal, disposal and restoration costs, the bond shall be increased to the amount necessary to cover such costs within 10 days of the applicant's receipt of such report.

8. Structural safety.

    a. During the application process and after construction of the tower, the applicant shall provide a certification from a qualified New York State licensed professional engineer, certifying that the tower and antennas meet applicable New York State and ANSI structural safety standards.

    b. Unless otherwise preempted by federal or state law, the telecommunications facility shall be inspected every two years, at the applicant's expense, for structural integrity. A copy of the report shall be promptly delivered to the Building Inspector. A New York State licensed professional engineer specializing in structural engineering shall perform the structural inspection. The structural inspection report shall describe the structural integrity of the facility, maintenance issues and repairs needed or made, if any. In the event that the structural inspection indicates structural deficiencies, then the deficiencies must be remedied within the time reasonably set by the Building Inspector. Upon the applicant's failure to do so, the permit may be revoked.

9. Maintenance of telecommunications facility. All telecommunications facilities shall be maintained in good order and repair. The City may require that reasonable records of such maintenance be kept and available for City review upon request.

F. Exceptions.

1. Exceptions are as follows:

    a. Antennas and satellite antennas used solely for residential household television and radio reception are exempt from review, provided they are not located in the front yard or on the front façade of any building.

    b. Antennas with no dimension greater than two meters and located in commercial and industrial districts and antennas with no dimension greater than one meter regardless of location require Administrative Planning Review and Approval.

2. Towers and antennas may be repaired and maintained without restriction.

G. Procedure.

1. In the event of any conflicts or inconsistencies between this section and any other local law, including any other provision of this chapter, this section is meant to control for

telecommunications towers and similar facilities in the City unless otherwise specifically referenced in this section.

2. In the event that there is a change in technology that alters the use of the telecommunications facilities cited pursuant to this section, the City reserves the right to require a new application to be submitted, which complies with the above requisites, from all owners of such telecommunications facilities.

ARTICLE IX, Site Plan Review and Approval

§ 410-43. Intent.

The intent of this Article IX is to provide for the review of site plans for certain uses to preserve and enhance the character of neighborhoods, mitigate potentially negative impacts on traffic, parking, drainage and similar environmental concerns, and improve the overall aesthetic quality of the City.

§ 410-44. Applicability.

Any establishment of a land use or activity shall comply with the standards and procedures of this Article IX, except as provided by 410-45.C.

§ 410-45. Categories of review. [Amended 8-7-2013 by Ord. No 13-49]

Those uses for which planning approval must be obtained in accordance with the provisions of this Article IX shall fall into one of the following categories:

A. Planning Commission Review and Approval: Approval from the Planning Commission pursuant to §410-46 of this Article IX is required for:

   1. all new non-residential construction of a principal use;
   2. all new non-residential construction of an addition or accessory use in excess of 4,000 square feet;
   3. all new residential structures or conversion of an existing building to a residential structure of four units or more;
   4. all new residential structures or conversion of an existing building to a residential structure with three units or less, if any unit has five bedrooms or more
   5. all uses requiring a special use permit;
   6. all uses which require a use variance;
   7. all uses which are Type I or Unlisted actions under SEQRA;
   8. as required by § 410-27 or §410-29 of this Chapter.

B. Administrative Planning Review and Approval: Administrative Planning Review and Approval is required for proposals that are Type II actions under SEQRA, that do not involve new construction, and that involve that group of land uses and activities which are permitted by right, will result in less than 4,000 square feet of gross floor area of the proposed use, and will have limited or no adverse effect on the physical, environmental, social or economic character of the surrounding neighborhood, including, but not limited to, effects on:

   1. Traffic volume
   2. Site access
   3. Parking
   4. Internal circulation

5. Neighborhood noise levels
6. Green space (The proposed project will not have created a need for additional landscaping, screening, or buffering)
7. Drainage
8. Hours of operation
9. Character of the neighborhood
10. Lighting

The Planning Department reserves the right to request that any application be reviewed and decided by the Planning Commission. In such case, the hearing provisions of §410-39D shall be applied and the applicable requirements of Article VIII must be met. Administrative Planning Review and Approval shall be made by the Planning Department in accordance with the provisions of §410-36B. No public hearing shall be held for administrative reviews.

C. Exceptions. Neither Planning Commission nor Administrative Planning Review and Approval is required for:

1. Detached one-unit to three-unit dwellings and accessory uses thereto, provided they are in conformance with bulk table requirements, except as may be required by §410-19, §410-27, §410-29 or 410-45.A(iii) or (iv) of this Chapter.

2. All uses that are permitted by right, do not constitute a change of use (e.g. the establishment of a full-service restaurant in a commercial space that was most recently operated as a full-service restaurant - provided that the prior use has not been vacated for over one year), and involve no exterior changes to buildings, structures, or site, except for signage. All non-residential uses exempt from planning review under this section must obtain a Zoning Compliance Letter from the Zoning Officer prior to obtaining a building permit or Certificate of Occupancy from the Office of Building and Construction.

D. No building permit or Certificate of Occupancy shall be issued by the Office of Building and Construction for any use that requires Planning Commission or Administrative Planning Review and Approval prior to such approval. Such permit must be in full conformance with plans and conditions approved by the Planning Commission or Planning Department.

E. Nothing herein shall modify referral requirements under the General Municipal Law.

§ 410-46. Procedure. [Amended 8-7-2013 by Ord. No 13-49]

A. Predevelopment Meeting. Prior to the preparation and submission of final applications, plans, and any other required documents, applicants may prepare a sketch plan and meet with the Planning Department staff to consider specifics of the proposed use or development, neighborhood characteristics and features of the site. Such sketch plan should be submitted in duplicate and include enough information to enable a clear understanding of the proposal.

B. Application. Application for planning review and approval shall be made to the Planning Department for processing. All applications require written consent of the property owner.

C. A complete application will be referred to the Planning Commission (§410-45.A) or reviewed by the Planning Department (§410-45.B), as the case may be.

D. Filing. The written decision of the Planning Commission or the Planning Department and final approved plans, as appropriate, shall be filed in the Office of the City Clerk and Office of Building and Construction within five business days after such decision is rendered, and a copy thereof shall be mailed first class or electronically to the applicant.

§ 410-47. Standards for approval of site plans.

In reviewing applications for approval of site plans, the reviewing agency will be guided by the existing characteristics and conditions of the site and its surroundings and the particular requirements of the applicant. Elements of concern will include, but not be limited to:

A. Movement of vehicles and people.
B. Public safety.
C. Off-street parking and service.
D. Lot size, density, setbacks, building size, coverage and height.
E. Landscaping, site drainage, buffering, views or visual character.
F. Signs, site lighting.
G. Operational characteristics.
H. Architectural features, materials and colors.
I. Compatibility with the general character of the neighborhood.
J. Other considerations that may reasonably be related to health, safety and general welfare.

§ 410-48. Modification of certain regulations.

A. Review by the Planning Department. In reviewing an application for the construction of, or conversion of an existing building to, a one- to three-unit dwelling, the Planning Department may modify the minimum bulk requirements specified in Schedules IA (§ 410-28) and IIA (§ 410-33) when it would not adversely affect the site development or alter the essential character of the area. Such authority to modify bulk requirements shall be limited as follows:

Requirement	**Maximum Percent Change**
Minimum lot area: reduce by no more than	10%
Minimum lot width: reduce by no more than	10%
Minimum front, side, and read setback: reduce by no more than	25%

B. Review by Planning Commission. When the Planning Commission determines that special conditions or circumstances exist which make bulk requirements set forth in this chapter inappropriate, the Commission, in acting on any site plan approval application, or on an appeal from a site plan decision of the Planning Department, may modify such requirement if the best interest of the City would be served and the spirit of this chapter can be maintained. Such authority to modify bulk requirements shall be limited as follows:

Requirement	Maximum Percent Change
Minimum lot area: reduce by no more than	25%
Minimum lot width: reduce by no more than	25%
Minimum front setback: reduce by no more than	33%
Minimum side and rear setback: reduce by no more than	33%
Maximum building height: increase by no more than	10%
Maximum percentage of lot covered: increase by adding no more than	5%
Minimum off-street parking: reduce by no more than	75%

C. Justification. Justification for any modifications by the Planning Department or Planning Commission, as authorized by this § 410-48, shall be documented in writing and filed in the records of the application for site plan approval.

§ 410-49. Appeals.

A. Appeal of Planning Department decision. An applicant for Administrative Planning Review and Approval may appeal to the Planning Commission for a review and modification of a decision made by the Planning Department. Such appeal shall follow the provisions of § 410-46 of this chapter.

B. Appeal of Planning Commission decision. Any person aggrieved by a decision for Planning Commission Review and Approval may apply to the supreme court for review by a proceeding under article seventy-eight of the civil practice law and rules. Such proceedings shall be instituted within thirty days after the filing of a decision by the Planning Commission in the office of the city clerk.

ARTICLE X, Off-Street Parking, Loading and Storage

§ 410-50. Intent. [Amended 12-21-11 by Ord. No. 11-51; Amended 8-7-2013 by Ord. No 13-49]

It is the intention of this article that all land uses and activities in the City of Binghamton be provided with sufficient off-street motor vehicle parking to meet the needs of persons associated with such land uses and activities and sufficient off-street loading facilities that are designed and maintained to adequately serve theneeds of such land uses and activities while protecting the health, safety and general welfare of the citizens and environment of the City of Binghamton

A. Scope. Off-street parking and loading facilities shall be provided for all buildings, structures and land uses in accordance with the provisions of this Article X and amendments thereto.

B. Existing buildings, structures, and land uses. Buildings, structures and land uses in existence, or for which building permits have been approved, at the time of adoption of this article shall not be subject to the parking and loading requirements contained herein. In such cases, any existing parking and loading facilities shall not be subsequently reduced in area or number if such reduction causes the existing facility(ies) to fall below the minimum requirements of this article.

C. Changes to existing buildings, structures and land uses. Whenever the current use of a building, structure or land shall hereafter be expanded or changed to a new use, parking and loading shall be provided in an amount equal to the requirements contained in §410-53 for such expanded or new use. Additional off-street parking and loading spaces shall only be required to serve the enlarged or expanded area, not the entire building or use. For buildings containing multiple uses, additional parking and loading shall only be required for the portion of the building to be expanded or the portion of a use to be expansion or for a new use.

D. Damage or destruction of nonconforming use. When a structure or use, which is nonconforming in terms of the parking and loading requirements of this Article X, is totally destroyed or damaged by any cause to an extent which exceeds 50% of the physical structure on the property, restoration or reconstruction of such structure or use shall include sufficient off-street parking and loading to bring it into compliance.

E. Facilities dedicated and accepted by the City. Required off-street parking facilities which, after development, are then dedicated and accepted by the City shall be deemed to continue to serve the uses or structures for which they were originally provided.

F. Certificate of occupancy. No certificate of occupancy shall be issued for any building or land use unless the required off-street parking space has been provided.

G. New variance. In case of practical difficulty or special conditions arising out of the parking and loading requirements of this Article X, such requirements may be modified through an application to the Zoning Board of Appeals for an area variance in accordance with the provisions of § 410-94 of this chapter.

§ 410-51. Standards. [Amended 12-21-11 by Ord. No. 11-51; Amended 8-7-2013 by Ord. No 13-49]

Off-street parking and off-street loading provisions of the article shall apply as follows:

A. Use of required spaces. Required parking spaces and any portion of the area on a site encompassing the required parking and the required landscaping within the parking area on a site shall not be rented or leased to any party on or off the site or be used for some purpose other than that permitted or allowed on the site; these spaces shall be made available and maintained in a safe, usable condition for the tenants and their clients or customers, at no charge.

B. Computation. Where the determination of the number of off-street parking spaces results in a requirement of a fractional space, the requirement shall be rounded down to the nearest whole number.

C. Square footage. References to spaces per square foot are to be computed on the basis of gross floor area unless otherwise specified, and shall include allocations for rest room(s), hall(s), and lobby area(s), but shall exclude area for vertical circulation, stairs, elevators, or upper-story atriums. (See Section 202(120)).

D. Multiple uses encouraged.

1. Cross-access encouraged. Applicants for commercial and industrial developments should be encouraged to provide cross-access to adjacent nonresidential properties for convenience, safety, and efficient circulation of motor vehicles. A mutual access agreement shall be executed where cross-access is provided.

2. Combined facilities. Off-street parking facilities for independent uses, which uses may or may not be on the same lot, may be combined if the total number of spaces so provided is not less than the sum of the separate requirements for each such use. There shall be adherence to all regulations governing the location of parking, in relation to the use it serves. No parking spaces or portion thereof shall serve as required spaces for more than one use.

3. Required spaces. The minimum number of off-street parking spaces required for land uses or activities permitted by this chapter shall be set forth in Schedule III (see § 410-53), which schedule is hereby adopted and made part of this article.

E. Location

1. Location of required parking

Use or District	Location of Parking
Any use in the R-1 or R-2 Districts	On-site parking required
Any use in the R-3 District	Provided on-site or within 250 feet*
Any residential use in a non-residential district	Provided on-site or within 250 feet*
Any nonresidential use in a nonresidential district	Provided on-site or within 800 feet*
* This shall be calculated by measuring the distance from the nearest lot line of such public/private off-site parking facility to the nearest lot line of the building or use it is intended to serve. The use of private off-site parking shall be approved only when written assurance is made that the private off-site parking will continue to be available to the building or use it is intended to serve. The form of such assurance shall be determined by the Corporation Counsel.	

F. Yards. Off-street parking space, open to the sky, may be located in any required yard space, except that:

1. In any residential district and the C-5 District, required yard area adjacent to a street may not be used for parking. This restriction shall not apply to driveways to one- and two-unit dwellings.

2. In any residential district, no more than 50 percent of the area of the required rear setback shall be utilized for off-street parking

3. Parking may not be located less than five feet from any lot line or public street in any zoning district. This restriction shall not apply to driveways to one- and two-unit dwellings.

G. Tandem parking. Tandem parking of two or more vehicles will not be considered in the determination of the total amount of off-street parking available if such tandem parking blocks the driveway for other vehicles. This provision shall not apply to one- and two-unit dwellings. Tandem parking of not more than 50% of parking spaces is permitted for three-unit dwellings.

H. Off-Site Parking Area Capacity. If an applicant requests use of a public parking facility to meet off street parking requirements, as provided in Section E above, the Planning Commission will request a letter from the Director of Planning to determine the available capacity of the designated facility. The Director of Planning may consider the number of issued monthly parking passes, the number of daily users, fluctuating seasonal demand, potential turnover, frequency of nearby special events, and such other factors as the Director may deem relevant to determine parking capacity. The decision of the Director of Planning shall be binding on the Planning Commission. Any person aggrieved by the Director of Planning's decision may apply to the Supreme Court for review by a proceeding under article seventy-eight of the civil practice law and rules. Such proceedings shall be instituted within thirty days after the filing of a decision by the Planning Department in the office of the City Clerk. Notwithstanding the above, the public parking area at 69 Collier Street is not available to satisfy off street parking requirements.

I. Maximum number of parking spaces. No use other than one or two-unit dwellings shall provide parking in excess of 110% of parking minimums contained in Schedule III.

J. Pedestrian Circulation Plan. Any land use which requires a minimum of 50 parking spaces shall be required to provide a pedestrian circulation-plan for the proposed site prior to the issuance of permits.

§ 410-52. Definitions.

As used in this article, the following terms shall have the meanings indicated:

DUMPSTER -- A watertight container constructed of impervious material and provided with a cover or covers of like material which is intended and designed to be used for the retention or storage of garbage, refuse or recyclable materials. This term shall not include containers having a maximum capacity of 60 gallons or less.

FLOOR AREA -- For the purposes of determining the required number of parking spaces, floor area shall be measured in accordance with the definition provided for "floor area ratio."

FLOOR AREA RATIO -- The numerical value obtained by dividing the total floor area of the building or buildings on the lot by the area of such lot.

FOOTCANDLE -- One lumen per square foot; unit of illuminance used to measure the amount of light emitted by lamps.

IMPERVIOUS -- Any nonorganic material that prohibits penetration by liquids or other soluble materials.

OPAQUE -- Any nontranslucent, nonliving material that provides a visual barrier from one side to the other.

§ 410-53. Off-street parking requirements by land use. [Amended 8-7-2013 by Ord. No 13-49; Amended 2-3-2016 by Local Law 16-02]

Required spaces. The minimum number of off-street parking spaces required for land uses or activities permitted by this chapter shall be as set forth in Schedule III, which is hereby adopted and made part of this article.

A. Downtown Business (C-2) District. Off-street parking requirements shall not apply to any existing buildings located in the Downtown Business (C-2) District where no parking presently exists and there is no opportunity to provide it. Subsection A. shall not apply to any Congregate Living facility or to any construction or conversion resulting in a dwelling unit with four or more bedrooms.

B. In all Zoning Districts except in the C-2, off-street parking requirements contained in Schedule III shall not apply to a non-residential land use occupying 4,000 square feet or less in gross floor area and located within an existing structure or portion thereof, which was constructed, established, wholly reconstructed, or moved onto a new lot prior to the effective date of the Zoning Code or any amendments thereto.

C. In all Zoning Districts except the C-2, a non-residential land use occupying greater than 4,000 square feet of gross floor area and located within an existing structure or portion thereof, which was constructed, established, wholly reconstructed, or moved onto a new lot prior to the effective date of the Zoning Code or any amendments thereto, shall only be required to provide off-street parking as prescribed in Schedule III for the portion of the floor area that exceeds 4,000 square feet.

D. Existing Parking and Loading to be Maintained. No existing parking space(s) or loading space(s) serving any activity or use shall be reduced in amount or changed in design, location, or maintenance that would result in non-compliance with the Zoning Code, or if providing an amount of off-street parking or loading area less than required, shall not be further reduced below the requirements prescribed in Schedule III for such activity or use, unless equivalent substitute parking and/or loading space(s) are provided.

E. Reduction of off-street parking requirements for Landmark Properties. The Planning Commission may reduce or waive the minimum off-street parking requirement for a permitted use in a designated Local Landmark structure or structure listed in the National Register of Historic Places, subject to the following criteria and procedures:

    1. In making any such reduction or waiver, the Planning Commission shall assess area parking needs. The Commission may require a survey of on and off street parking availability. The Commission may take into account the level of transit service in the immediate area; the probable relative importance of walk-in traffic; proposals by the applicant to encourage carpooling or transit use by employees; hours of operation; and any other factor or factors considered relevant in determining parking impact.

    2. The Planning Commission may also consider the types and scale of uses proposed or practical in the Landmark structure and any standards, specifications or guidelines applicable to the structure or site.

    3. Such a reduction or waiver may be allowed only if the Planning Commission also determines that there is no feasible way to meet parking requirements on the lot.

F. In all non-residential zoning districts, regardless of land use, the new construction or expansion of parking areas located between a principal building and the public right-of-way is not permitted.

G. Electric vehicle charging stations. Every parking space served by an electric vehicle charging station shall count as 2 parking spaces when calculating the minimum parking requirement for a land use. Electric vehicle charging stations shall meet the following standards:

    1. The charging station has complete instructions and appropriate warnings posted in an unobstructed location on or adjacent to the charging station.

2. If located in a residential zoning district, the charging station must be located within a legal garage or carport.
3. If located in an ancillary or commercial parking lot the charging station shall be illuminated during evening business hours and located in a legal parking space reserved exclusively for electric vehicles.

H. Schedule III.

Residential Use Classifications	
Land Use or Activity	Space(s) Required
Dwelling, 1-4 bedrooms	1 space per unit
Dwelling unit, 5+ bedrooms	1 space for the first bedroom, plus 0.5 spaces per each additional bedroom
Congregate living	1 space per bedroom
Affordable housing, 1-4 bedrooms	No parking required
Senior housing	No parking required

Commercial and Industrial Use Classifications	
Land Use or Activity	Space(s) Required
Adult entertainment	1 space per 250 square feet of gross floor area
Animal care	1 space per 500 square feet of gross floor area
Automatic Teller Machine	3 stacking spaces, plus 1 space per 250 square feet of gross floor area
Day care	1 space per 500 square feet of gross floor area
Drive-through business	5 stacking spaces, plus 1 space per 250 square feet of gross floor area
Eating and drinking establishment	1 space per 250 square feet of gross floor area
Event venue	1 space per 100 square feet of gross floor area of assembly space
General retail	1 space per 500 square feet of gross floor area
Greenhouse/ nursery	1 space per 500 square feet of gross floor area
Industry, light or general	1 space per 1500 square feet of gross floor area
Medical office	1 space per 500 square feet of gross floor area
Office	1 space per 500 square feet of gross floor area
Overnight lodging	1 space per guest room
Personal service	1 space per 500 square feet of gross floor area
Recreation, indoor	1 space per 500 square feet of gross floor area
Recreation, outdoor	1 space per 0.25 acres of exterior recreation space, plus 1 space per 250 square feet of interior gross floor area
Retail food sales	1 space per 500 square feet of gross floor area
Studio/ art gallery	1 space per 250 square feet of gross floor area
Transportation service	1 space per service vehicle, plus 1 space per 500 square feet of interior gross floor area
Vehicle fueling station	1 stacking space and 1 space per fuel pump, plus 1 space per 500 square feet of interior floor area
Vehicle sales/rental	1 space per vehicle for sale, plus 1 space per 500 square feet of interior gross floor area
Vehicle repair/service	2 spaces per service bay

Warehouse and distribution	1 space per 1500 square feet of gross floor area
Waste-related services	1 space per 1500 square feet of gross floor area

Institutional or Public Use Classifications	
Land Use or Activity	Space(s) Required
Place of worship	1 space per 100 square feet of gross floor area of assembly space
Community center	1 space per 250 square feet of gross floor area
Educational institution	1 space per 5 full-time students enrolled at capacity
Hospital, medical center	1 space per 5 patient beds
Nursing home	1 space per 5 patient beds
Social services	1 space per 500 square feet of gross floor area

I. Uses not specified. For uses not expressly listed in this section, parking spaces shall be provided on the same basis as required for the most similar listed use as determined by the Planning Department.

§ 410-54. Size and access. [Amended 12-21-11 by Ord. No. 11-51]

Each required off-street parking space shall conform to the dimension requirements outlined in Section 410.54. Each parking space shall have direct and functional access to a street and, except for one-and two-family dwellings, shall not require the backing of any vehicle across a sidewalk or into a street right-of-way.

A. Driveway width requirements. The width of driveways, measured at the nearest points of the radius return, shall meet the following requirements:

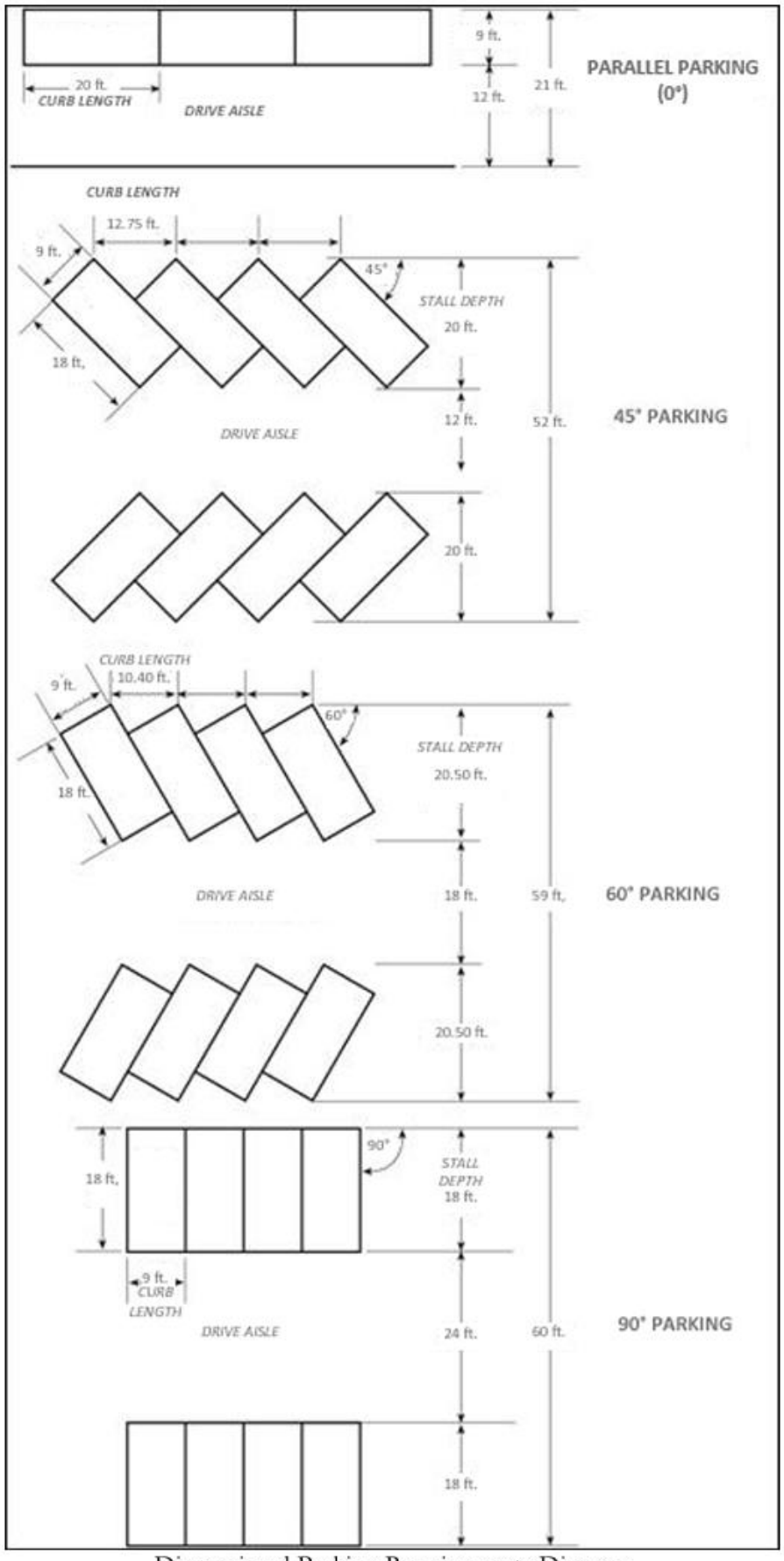
Driveway Width		
Use	Minimum (feet)	Maximum (feet)
Commercial, institutional, multiple-unit residential		
One-way traffic	12	18
Two-way traffic	24	30
Industrial		
One-way traffic	15	25
Two-way traffic	25	40
One to three-unit dwelling	9	18

B. Dimensional parking requirements.

1. Parking space/stall sizes. The dimensions for standard parking spaces shall be nine feet wide and 18 feet in length. The table below provides the dimensions of parking spaces (stalls) and aisles according to the angle of parking spaces.

Dimensional Parking & Drive Aisle Requirements

Angle	Stall Width	Stall Length	Aisle Width*	Curb Length Per Stall	Stall Depth
0°	9.00	20.00	12.00	20.00	9.00
45°	9.00	18.00	12.00	12.75	20.00
60°	9.00	18.00	18.00	10.40	20.50
90°	9.00	18.00	24.00	9.00	18.00
*Aisle width indicated is the minimum for one-way traffic. See subsection A above.					



Dimensional Parking Requirements Diagram

2. Accessible parking required: Accessible parking spaces shall be provided in compliance with design requirements of the adopted New York State Code, including referenced standards identified therein, and in accordance with Code of Federal Regulations at 28 CFR parts 35, title II, and 36, title III.

§ 410-55. Design and maintenance. [Amended 12-21-11 by Ord. No. 11-51]

A. Surfacing. Any off-street parking and/or loading area, including driveways and maneuvering aisles, shall be surfaced with pervious pavement, asphaltic or Portland cement binder pavement, grasscrete, concrete pavers, or other surface approved by the Supervisor of the office of Building and Construction or the Planning Department, so as to provide a durable, dustless and continuous (from point of access to edge of public street) all-weather surface that is appropriately structured and bordered for permanence, shall be graded and drained so as to retain or dispose of all surface water accumulated within the area, and shall be so arranged and marked as to provide for orderly and safe loading and unloading and parking and storage of vehicles. Gravel and "crusher run" shall not be permitted as a surfacing material.

B. Design and Maintenance of required landscaping for parking areas. Landscaped areas as required in § 410-55C and § 410-55D shall meet the following standards:

1. Landscaping materials shall include a combination of trees, shrubs, vegetative ground cover, and grasses that shall have a minimum height of three feet at the time of planting and that shall rapidly attain a height of six feet. The use of mulch and decorative stones or rocks shall be allowed as a decorative feature only.

2. Landscaped areas shall have a minimum of 12 inches of topsoil, tilled into noncompacted subbabase base soils. Landscape areas shall be sufficiently sized to support trees and other vegetation.

3. Except as provided by section 410.17, landscaping shall reasonably be expected to form a year-round dense screen at least four feet high within two years the initial planting. All plant materials shall be climate appropriate, preferable native species, and salt and drought tolerant.

4. On streets with sidewalks where the distance from the face of the curb to the outer edge of the sidewalk is at least six (6) feet, street trees shall be provided to the satisfaction of the Planning Department. A minimum of one two (2) inch caliper tree shall be planted per every 30 linear feet of street frontage. Selection of street tree species shall be based upon compatibility with the existing tree plantings on the street, the mature size of the tree, space available for the tree to grow, the presence of underground and overhead utility lines, utility poles, streetlights, driveway approaches and fire hydrants. Trees shall be planted in accordance with Chapter 391, Trees and Shrubs.

5. All required planting shall be permanently maintained to good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. The owner of such parking area is responsible for tree, including street trees, and landscaping maintenance in perpetuity.

6. Curb-cuts to allow water to flow into the landscape areas, in combination with grading to deliver runoff from parking lot to landscaped areas, shall be used to create bio-retention and infiltration areas for water quality protection and groundwater recharge.

7. All plantings shall comply with Section 410.17, Visibility at Intersections.

8. A Landscape Plan detailing the above requirements, where applicable, shall be submitted for review and approval to the Planning Department. The Planning Department may consult with the Shade Tree Commission when necessary.

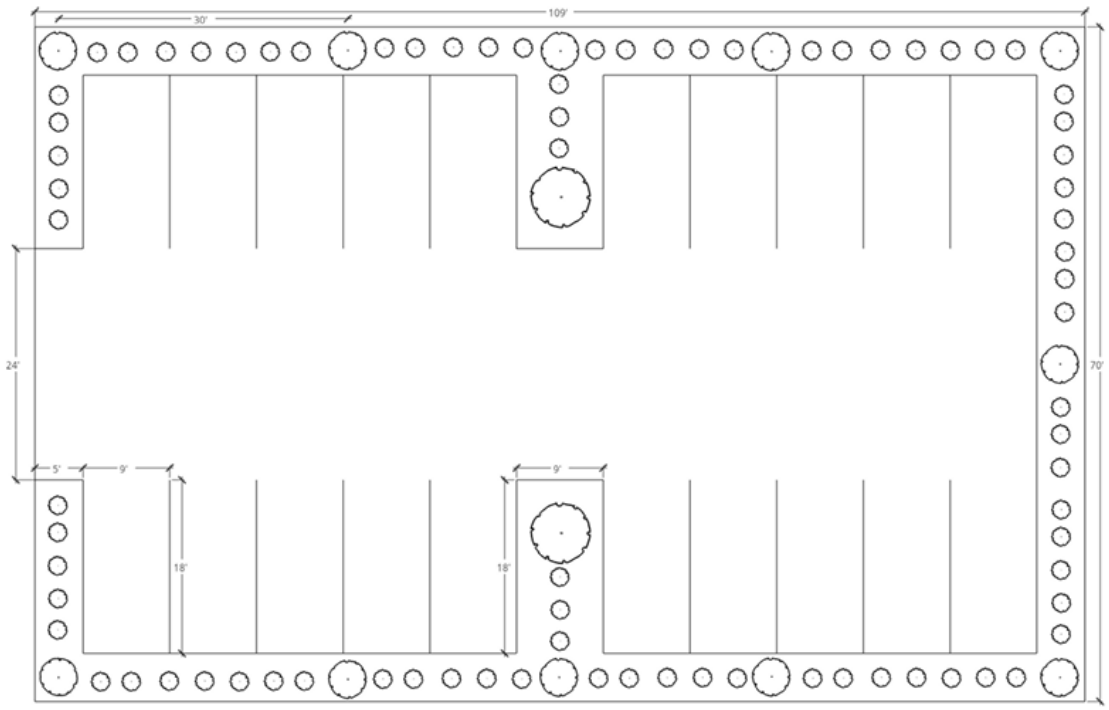
C. Screening and perimeter landscape buffers. Off-street parking and/or loading areas, including vehicle sales/rental facilities, containing or resulting in more than four parking spaces shall be screened with a minimum five (5) foot-wide perimeter landscape buffer strip, pursuant to § 410-55B, along all property lines abutting the parking area. A minimum of one two (2) inch caliper tree shall be planted for every 30 linear feet of the perimeter of the parking area. Any fraction of a tree shall be rounded up to the nearest whole number.

D. Interior landscape islands. In addition to the perimeter landscaping requirements, Off-street parking and/or loading areas, including vehicle sales/rental facilities, containing or resulting in 20 or more parking spaces shall include internal landscaped islands, pursuant to § 410-55B, and subject to the following provisions:

1. A minimum of one landscaped area with a minimum size of 162 square feet (approximately 9 feet by 18 feet) shall be provided for every 10 parking spaces and developed as islands within the interior of the parking area.

2. A minimum of one two (2) inch caliper tree shall be planted within each required interior landscape island. Trees shall be planted within interior landscape islands such that they result in tree canopy coverage over the parking area at the time of maturity.

3. Internal landscape islands designed to meet the above provisions and the provisions of Chapter 227-6 shall count toward the required twenty (20) percent stormwater reduction requirement for off-street parking areas as required by Chapter 227.6.



Landscape Buffer and Interior Landscape Islands Example

E. Urban runoff reduction plan. In addition to the requirements setforth in this Article, an Urban Runoff Reduction Plan shall be required for (1) an ancillary parking area or public off-street parking area of any size, (2) new off-street parking and/or loading areas, including driveways and maneuvering aisles, containing 20 or more parking spaces or 5,000 square feet or more of site area, whichever is less, and (3) additions, and alterations or resurfacing of existing off-street parking and/or loading areas, including driveways and maneuvering aisles, resulting in or involving 20 or more parking spaces or 5,000 square feet or more of site area, whichever is less. See Chapter 227

Erosion Control and Stormwater Management, Article III Section 227.6 for Urban Runoff Reduction Plan requirements.

F. Wheel stops. Wheel stops of masonry, steel or timber, or similar stopping devices, shall be anchored and used to prevent vehicles from parking closer to a lot line than permitted by this chapter. This restriction shall not apply to one- and two-unit dwellings.

G. Lighting. Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed 0.2 footcandle measured at the lot line, as certified by a licensed engineer.

H. Bicycle parking.

1. Bicycle parking required. Off-street parking areas containing or resulting in 10 or more spaces shall provide one bicycle parking space for every 10 vehicle parking spaces

2. Bicycle parking spaces shall meet the following design standards:

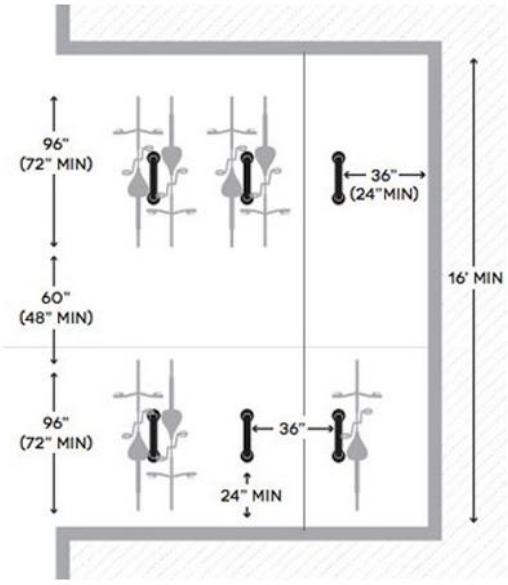
a. Bicycle parking spaces are recommended to be 3 feet by 8 feet, but shall be a minimum of 2 feet by 6 feet.

b. Access aisles shall be a minimum of 4 feet.

c. Each required bicycle parking space must be accessible without moving another bicycle, and its placement must not obstruct a required walkway.

d. All bicycle parking spaces must be accompanied by a bicycle rack that accommodates cable locks and "U" locks, must permit the locking of the bicycle frame and one wheel to the rack, and must support a bicycle in a stable position.

e. Up to 50% of bicycle parking may be structured parking, vertical parking or wall mount parking.



Bicycle Parking Dimensional Requirements Diagram

I. Snow storage. Off-street parking and/or loading areas shall include a snow storage area located to prevent damage to small landscaping materials and sensitive stormwater management features.

§ 410-56. Dumpsters and dumpster enclosures.

A. Notwithstanding any other provisions contained in this chapter, residential lots containing four or more dwelling units shall not be required to provide and maintain dumpsters and dumpster enclosures so long as there are either carports, garages, or other enclosed areas suitable for storage or waste containers and provided that the residents utilize the enclosed storage areas to store their waste containers when not being made accessible for trash pick-up.

B. Dumpsters shall be maintained free of jagged or sharp edges or inside parts that could prevent the free discharge of their contents.

C. All dumpster pads shall be at least two feet larger than the dumpster on all sides. Wheel stops or posts shall be permanently affixed to the pad at least one foot inside the perimeter of the pad to prevent the dumpster from striking the enclosure during collection.

D. The dumpster, dumpster enclosure and all surrounding areas shall be maintained by the property owner in accordance with this section, and shall be free of overflowing refuse at all times except at a scheduled pick-up date. If a continuous problem of insufficient dumpster capacity is proven to exist, additional or larger capacity dumpsters and enclosures or increased frequency of pick-up shall be required in order to eliminate the overflow problem.

E. Dumpsters and dumpster enclosures shall be located in a position accessible for collection by the equipment of the collector.

F. In addition to the requirements set forth in the previous subsections, dumpsters and dumpster enclosures on developed residential lots shall comply with the following requirements:

   1. Dumpsters may be placed in the ground, provided the floor and walls of the enclosure are constructed of an impervious material. Any portion of the dumpster which is visible above the ground shall be screened with landscape material.

   2. Dumpsters not placed in the ground shall be stored on a concrete pad at all times except 12 hours before or after scheduled refuse collection and 24 hours before or after special bulk waste collection.

   3. The perimeter of the dumpster pad shall be enclosed on three sides by an enclosure not less than the height of the dumpster plus six inches. The enclosure must provide a visual barrier between the interior and exterior of the dumpster area. The remaining side of the dumpster enclosure shall be enclosed with gates.

   4. Each dumpster enclosure shall have at least a thirty-inch opening on one side, to enable a person to walk into the enclosure to deposit trash, garbage, refuse, or recyclable materials.

G. In addition to the requirements set forth, dumpsters and dumpster enclosures on nonresidential lots shall comply with the following requirements:

   1. Dumpsters shall be kept within opaque enclosures a minimum of 12 feet wide and 12 feet long which shall be of sufficient height to visually screen the dumpster from the street or from abutting properties. The enclosure shall be located at least five feet inside any lot line, except that no dumpster or dumpster enclosure shall be located in a yard area or within any recorded easement.

   2. Each dumpster enclosure shall have at least a thirty-inch opening on one side, to enable a person to walk into the enclosure to deposit trash, garbage, refuse, or recyclable materials. The enclosure shall be constructed so as to accommodate recycling bins, if over 60 gallons.

   3. The gates of the enclosure shall be constructed of a frame with opaque walls affixed thereto, and both frame and walls shall be of a material of sufficient strength to withstand normal use. Gates

shall be attached to metal posts at least three inches in diameter with at least two hinges. Each gate shall have a wheel at the bottom to prevent sagging and shall have drop pins or rods to hold the gates in place in both open and closed positions.

4. The base of the enclosure must be poured concrete, in accordance with the requirements of the Building Code. The base shall extend three feet beyond the front opening of the enclosure as an apron, and all concrete must be level with the adjacent asphalt.

§ 410-57. Off-street loading requirements.

A. Applicability. Off-street loading berths shall be provided in accordance with Subsection G(2) of this section in connection with any building or structure which is to be erected or enlarged, and which requires the receipt or distribution of materials or merchandise by truck or similar vehicle.

B. Location. All required off-street loading berths shall be located on the same lot as the use to be served, and no portion of the vehicle shall project across a public street, sidewalk, or alley. No permitted or required loading berth shall be located less than 25 feet from the nearest point of intersection of any two streets, nor shall it be located in a required front yard or side yard adjoining a street. This restriction shall not apply in any C-1, C-2 or industrial district.

C. Size. Unless otherwise specified in this chapter, a required off-street loading berth shall be at least 12 feet in width and at least 30 feet in length, exclusive of aisle and maneuvering space, and shall have a vertical clearance of at least 15 feet.

D. Access. Each required off-street loading berth shall be provided with appropriate means of direct vehicular access to a public street or alley which is paved and located in a manner which will least interfere with traffic movement.

E. Storage and repair. No outdoor storage, nor motor vehicle repair work or service, shall be permitted within any required loading berth area.

F. Space allocation. Space allocated to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any other off-street parking facilities or portions thereof.

G. Space requirements.

1. For nonresidential uses in all districts except C-1 and industrial districts: one space for the first 10,000 square feet of gross floor area, or major portion thereof, plus one additional space for each additional 100,000 square feet of gross floor area or major portion thereof. Such space is not required when gross ground floor area is 5,000 square feet or less.

2. For uses in C-1 and industrial districts, off-street loading shall be provided in accordance with the following table:

Floor Area of Establishment (square feet)	Required Number of Spaces	Minimum Size (feet)
5,000 to 25,000	1	12 x 30
25,001 to 50,000	2	12 x 65 each
50,001 to 100,000	3	12 x 65 each
100,001 to 150,000	4	12 x 65 each

3. For each additional 100,000 square feet of gross floor area, or major fraction thereof, one additional loading space shall be provided. Such additional loading space shall be at least 12 feet in width by 65 feet in length, and have a vertical clearance of not less than 15 feet.

§ 410-58. Purpose and intent.

The purpose of this article is to promote the public health, safety, and welfare by establishing content neutral standards and criteria for the construction, installation, maintenance, and operation of outdoor advertising, outdoor advertising signs, and outdoor signs of all types in the City of Binghamton, which are subject to the provisions of this article. It is the further purpose to provide for the removal of those signs that do not comply with these regulations. More specifically, this article is intended to:

A. Promote the creation of a an attractive visual environment that promotes a healthy economy by:

   1. Permitting businesses to inform, identify, and communicate effectively; and
   2. Directing the general public through the use of sign while maintaining attractive and harmonious application of signs on the buildings and sites.

B. Protect and enhance the physical appearance of the City of Binghamton in a lawful manner that recognizes the rights of property owners by:

   1. Encouraging appropriate design, scale, and placement of signs;
   2. Encouraging the orderly placement of signs on the building while avoiding regulations that are so rigid and inflexible that all signs are in a series are monotonously uniform;
   3. Assuring that the information displayed on a sign is clearly visible, conspicuous, legible, and readable so that the sign achieves the intended purpose;
   4. Reducing sign clutter and the distractions and obstructions that may contribute to traffic accidents, and to reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way; and
   5. Preserving scenic views and the visual character of neighborhoods, historic districts and parkland.

C. Foster public safety along public and private streets within the City of Binghamton by assuring that all signs are in safe and appropriate locations.

D. Establish review procedures that are the minimum necessary to:

   1. Balance the City's objectives and regulatory requirements with the reasonable advertising and way finding needs of businesses;
   2. Allow for consistent enforcement of the Sign Ordinance;
   3. Minimize the time required to review a sign application; and
   4. Provide flexibility as to the number and placement of signs so the regulations are more responsive to business needs while maintaining the City's standards.

E. Prohibit all signs not expressly permitted by this article.

§410-59. Application Process; Categories of Review.

A. Signs for which a permit must be obtained in accordance with the provisions of this Article XI shall fall into one of the following categories:

   1. CAUD Review: any sign within a designated Local Historic District or involving a designated Local Landmark Property. Review of, and decision on, any sign application shall be made by the Commission on Architecture and Urban Design (CAUD) pursuant to §18 78.

2. Standard Review: any sign that is located within the City of Binghamton that is outside a designated Local Historic District and does not involve a designated Local Landmark Property. Review of, and decision on, any Standard Review shall be made by the Department of Planning, Housing, and Community Development, except that the staff may request that such review and decision be made by the Commission on Architecture and Urban Design (CAUD)

B. B. Permit applications shall be filed with the Department of Planning, Housing, and Community Development. The application shall contain:

1. The name and address of the sign owner, the owner of the premises on which the sign is to be erected and the sign erector.

2. Scaled drawings showing the design and location of the sign, including an accurate plot plan and such other pertinent information as may be required to determine that the required standards are met. A photograph or rendering including all dimensions is required. The City reserves the right to approve, approve with modifications, or deny an proposed sign plan.

3. Insurance for Signs Extending Over the Public Right-of-Way.

a. The applicant shall place on file with the City, without cost to the City, satisfactory proof of general liability insurance in the minimum amount of one million dollars ($1,000,000.00) naming the City of Binghamton as an additional insured on a primary non-contributory basis, along with any appropriate endorsements, including state of indemnification to hold the City of Binghamton harmless from any liability incurred or caused by the sign.

b. Such insurance shall remain in force throughout the effective period of the permit and/or any authorized extension or extensions thereof and shall carry an endorsement to the effect that the insurance company will give prior written notice to the City of Binghamton Office of the Corporation Counsel of any modification or cancellation of such insurance.

c. The provisions of this subsection shall not in any way limit the rights of the City to bring any action or proceeding against the applicant, his or her agents or employees to recover damages suffered by the City and caused by the applicant, his or her agents or employees.

§410-61. Definitions.

A. As used in this article, a "sign" is any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination or project images. "Sign" does not include the flag of any nation, organization of nations, state or city, or fraternal, religious or civic organizations. "Sign" does not include merchandise; works of art which in no way identify a product; or scoreboards located on athletic fields.

B. The following words and phrases used in this Sign Code shall have the following meanings:

Abandoned Sign. A sign which for a period of at least 30 consecutive days or longer no longer advertises or identifies a legal business establishment, product, or activity. See also "Landmark Status Sign."

Accessory Sign. A sign which is intended solely for the purposes of providing information to pedestrians and vehicles, and which does not include any commercial or advertising content.

1. Directional Sign. A permanent accessory sign located on private property at or near the public right-of-way, directing or guiding vehicular traffic onto the property and/or toward parking or other identified locations on the property.

2. Instructional Signs. A sign clearly intended for instructional purposes, as determined by the Zoning Enforcement Officer, shall not be included in the permitted sum of the sign area of identification wall signs, provided such sign is not larger than necessary to serve the intended instructional purpose, and such sign is not in a location, nor includes design characteristics, that constitute or serve the purposes of an identification sign.

3. On-Site Informational Sign. A sign commonly associated with, and limited to, information and directions necessary or convenient for persons coming on the property, including signs marking entrances and exits, parking areas, one-way drives, rest rooms, pickup and delivery areas and the like.

Alteration. Any change in copy, color, size or shape, which changes appearance of a sign, or a change in position, location, construction or supporting structure of a sign, except that a copy change on a sign is not an alteration.

Animated Sign. A sign which has any visible moving part, flashing or osculating lights, visible mechanical movement of any description, or other apparent visible movement achieved by any means that move, change, flash, osculate or visibly alters in appearance in a manner that is not permitted by these regulations.

Area of Sign. The area of the largest single face of the sign within a perimeter which forms the outside shape, including any frame, or forms an integral part of the display, but excluding the necessary supports or uprights on which the sign may be placed. If the sign consists of more than one section or module, all areas will be totaled. Refer to measurement standards in §410-61 below. Awning. A shelter extending from the exterior wall of a building and composed of nonrigid materials except for the supporting framework.

Awning Sign. Any sign painted on or attached to or supported by an awning.

Banner Sign. A lightweight sign that contains a message which is attached or imprinted on a flexible surface that deforms under light pressure and that is typically constricted of non-durable materials, including, but not limited to, cardboard, cloth and/or plastic, and is subject to the requirements of §410 67.2. Banner signs are typically considered temporary, but may be considered as permanent signage under special circumstances, such as when used for vertical, projecting signs.

Billboard or Poster Panel. An off-premises advertising sign.

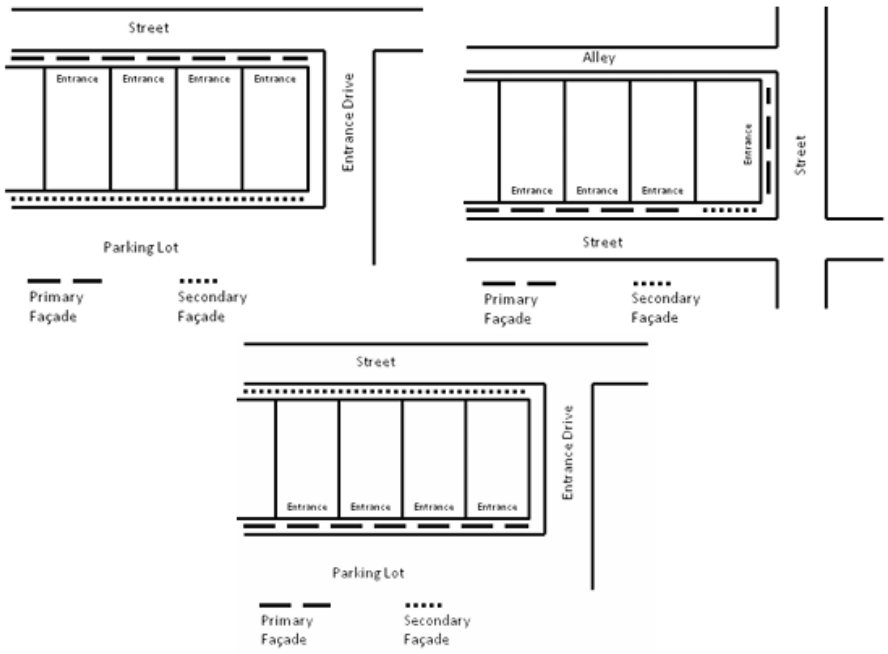
Building Identification Sign. Any sign containing the name or address of a building and may include hours of operation and emergency information, such sign being located on the same site as the structure.

Business Façade. The linear length of a business unit's space. For multi-tenant buildings, the portion of such building that is owned, or leased by a single tenant, shall be considered a separate business façade.

Business Façade, Primary. The primary façade shall be considered the portion of any façades containing primary public entrance(s) to the building or building units.

Business Façade, Secondary. The secondary façade shall included façades containing secondary public entrances to the building or building units, and all walls facing a public street or primary parking area not designated as the primary façade by above.

Primary and Secondary Façade examples



Business Unit. The area in a building, or portion thereof, occupied by a single business entity; tenant space.

Cabinet Sign. A permanent sign that is mounted on the face of a building that provides for internal illumination and changing the message of the sign by replacing a single transparent or translucent material such as a Plexiglas/lexan face; may be roughly rectangular in shape or may roughly follows the shape of the text of the sign. Also known as a "lightbox" sign.

Canopy. A permanently roofed shelter, other than the building roof, covering a sidewalk, driveway, or other similar area, which is supported by the building to which it is attached.

Canopy Sign. Any permanent sign attached to or constructed underneath a canopy. These signs are below a projecting structure which extends over the pedestrian walkway which effectively prevents the wall signs for being visible to the pedestrian walking under the canopy.

CAUD. Commission on Architecture and Urban Design; see Chapter 18, Boards, Commissions and Committees, Article VI, of the Code of the City of Binghamton.

Changeable Copy Sign. A sign or portion thereof on which the copy or symbols change manually through placement of letters or symbols on a panel mounted in or on a track system. See also Electronic Messaging Center sign.

Construction Sign. A temporary sign identifying an architect, contractor, subcontractor, and/or material supplier participating in construction on the property on which the sign is located.

Electronic Messaging Center (EMC) Sign. A sign, or portion of a sign, that displays an electronic image or video, which may or may not include text, including any sign or portion of a sign that uses changing lights or similar form of electronic display such as LED to form a sign message or messages with text and or images wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. This definition includes without limitation television screens, plasma screens, digital screens, flat screens, video boards, and holographic displays. See also "Static LED Display."

Freestanding Sign. Any sign which is permanently affixed in or upon the ground, supported by one or more structural members; this shall include Ground Signs, Pole Signs, and similar.

Freestanding Vertical Banner Sign. A temporary, freestanding vertically-oriented banner sign attached to a single vertical pole, supported by crossbar base or tipped with a ground spike.

Footcandle. A measure of illumination on a surface that is one foot from a uniform source of light of one candle and equal to one lumen per square foot.

Governmental Sign. A sign erected and maintained pursuant to and in discharge of any governmental functions, or required by law, ordinance or other governmental regulation.

Grade. The level of the site at the property line located at the closest distance to the sign.

Ground Sign. A sign erected on a freestanding base or structure (such as, but not limited to: concrete, masonry, wood, or stone) approximately the same dimensions as the sign face, and not attached to any building. See also Freestanding Sign and Pole Sign.

Halo Lighting. A method of sign illumination that consists of a light source external to the sign or sign elements and mounted behind the sign or sign elements. A halo lit sign shall be comprised solely of opaque letters or other sign elements, so that the light does not appear to emit from within or through the letters or other sign elements.

Height of Sign. The measurement from the base of the sign to its highest element; measured as set forth in §410-61 below.

Historic District. The regulation of signs in historic districts shall be subject to the additional provisions provided in Chapter 18, Boards, Commissions and Committees, Article XII, Landmarks Preservation Commission, of the Code of the City of Binghamton.

Holiday Decorations. Signs or displays including lighting which are a nonpermanent installation celebrating national, state, and local holidays or holiday seasons.

Illegal Sign. Any sign placed without proper approval or permits as required by this Code at the time of sign placement. Illegal sign shall also mean any sign placed contrary to the terms or time limits of any permit and any nonconforming sign which has not been brought into compliance with any applicable provisions of this Code.

Illuminated Sign. Any sign for which an artificial source of light is used in order to make readable the sign's message, including internally and externally lighted signs and reflectorized, glowing or radiating signs.

Landmark Status Sign. Abandoned signs which have been determined by the Commission on Architecture and Urban Design (CAUD) to have historical significance for the City; these signs are exempt from the removal requirements of other abandoned signs.

Length of Façade.

1. For measurement purposes, the length of any primary or secondary façade as defined herein, shall be the sum of all wall lengths parallel, or nearly parallel, to such façades excluding any such wall length determined by the Zoning Enforcement Officer or Planning Commission as clearly unrelated to the façade criteria.

2. The business façade for a building unit shall be measured from the centerline of the party walls defining the building unit.

Logo, Logogram, or Logotype. An emblem, letter, character, pictograph, trademark, or symbol used to represent any firm, organization, entity, or product.

Marquee. A permanent rooflike shelter extending from part or all of a building face and constructed of some durable material which may or may not project over a public right-of-way.

Marquee Sign. Any sign painted on or attached to or supported by a marquee. A marquee sign shall not project beyond the supporting marquee more than six (6) inches.

Merchandise Advertising Sign. Any point-of-purchase sign or advertisement located in immediate proximity to merchandise for sale or the business or service offered, describing such merchandise or service, its price and any terms of sale. This shall not include the following: any labeling or product information applied by the manufacture directly to the product; any changeable copy type signage or off-premises advertising signage; or any political and/or noncommercial sign.

1. Exterior merchandise advertising sign. Any merchandise advertising sign located outside of a structure; may be attached to an exterior façade of a structure or secured to a freestanding pole or other support structure.

2. Window merchandise advertising. Any merchandise advertising sign applied or attached the exterior or interior surface of the window, or within 12 inches of the window through which it can be seen. These sign include, but are not limited to: product signs, illuminated and neon alcohol advertising signs, illuminated ATM signs, Western Union or similar signs.

Mural. A picture on an exterior surface of a structure. A mural is a sign only if it is related by language, logo, or pictorial depiction to the advertisement of any product or service or the identification of any business.

Neon Sign. A sign with tubing that is internally illuminated by neon or other electrically charged gas.

Noncommercial Sign. Any sign (including, but not limited to: political signs, statements of opinion, no trespassing signs, and similar) designed for the purpose of any noncommercial expression not related to the advertisement of any product, item for sale, or service or the identification of any business.

Nonconforming Sign. A sign which was validly installed under laws or ordinances in effect at the time of its installation, but which is in conflict with the current provisions of this Code.

Off-Premises Advertising Sign. Any sign identifying or advertising goods, products, services or facilities offered at a different location from where the sign is installed.

On-Premises Advertising Sign. Any sign identifying or advertising a business, person, activity, goods, products or services located on the premises on which the sign is installed.

Pole Sign. A sign that is mounted on a freestanding pole or similar supports, with air space between the ground and the sign face. See also Freestanding Sign and Ground Sign.

Political Sign. See "Noncommercial Sign."

Portable Reader Sign. A sign which is not structurally attached to the ground or to a building, but which is mounted on a trailer, platform, legs or other device which may be moved from one location to another. This does not include Sandwich Board signs or Vertical Banner signs as separately defined herein.

Projecting Sign. A sign which projects from and is supported by a wall or parapet of a building with the display surface of the sign in a plane perpendicular to or approximately perpendicular to the wall. See also Canopy sign.

Real Estate Sign. Any nonpermanent sign pertaining to the sale, exchange, lease, rental, or availability of land, buildings, condominium and similar units, or apartments. Such signs may include building name and address, price and amenities, identity of seller or broker, and similar information.

Revolving or Rotating Sign. An animated sign.

Roof Sign. Any sign erected upon a roof, parapet, or roof-mounted equipment structure and extending above a roof, parapet, or roof-mounted equipment structure of a building or structure.

Sandwich Board Sign. A freestanding temporary sign, with no moving parts or lights, displayed outside a business, during business hours, to advertise the business, hours of operation, an event, a promotion or special, et cetera (excluding real estate signage). It is not intended as permanent business signage.

Sign. Any name, figure, character, outline, display, announcement, or device, or structure supporting the same, or any other device of similar nature designed to attract attention outdoors, and shall include all parts, portions, units, and materials composing the same, together with the frame, background, and supports or anchoring thereof. A sign shall not include any architectural or landscape features that may also attract attention.

Sign Face. An exterior display surface of a sign including nonstructural trim exclusive of the supporting structure.

Site. All the contiguous ground area legally assembled into one development location which is a zoning lot. A zoning lot is defined as a permanent parcel (lot of record), multiple lots of record, or a portion of a lot of record.

Static LED Display. A single-color light emitting diode (LED) display used for limited, infrequently changing textual or numeric sign content which is incorporated into a freestanding sign as a subservient, accessory feature. The displayed content shall not move, scroll, flash, or in any other way simulate motion. This type of display shall be distinct from EMC signs.

Special Event Sign. Any temporary or non-permanent sign advertising or pertaining to any civic, patriotic or special event of general public interest.

Temporary Sign. Any sign which is installed for a period not to exceed 30 days. This does not include Noncommercial signs as defined above.

Wall Sign. Any sign attached to or painted on the wall of a building or structure in a plane parallel or approximately parallel to the plane of said wall.

Window, Area of. The area of a single window includes all of the window panes in an area that is separated by mullions, muntins, or other dividers which are less than three (3) inches wide.

Window Sign. Any sign viewable through and/or affixed in any manner to a window or exterior glass door such that it is intended to be viewable from the exterior (beyond the sidewalk immediately adjacent to the window), including signs located inside a building but visible primarily from the outside of the building.

§410-62. General standards.

The following general standards shall apply to all signs:

A. Unless specifically stated otherwise, the signage for each business unit in a multi-tenant building or development site shall be considered independently.

B. Sign Measurements and Dimensions.

1. For a sign which is framed, outlined, painted, or otherwise prepared and intended to provide a background for the sign display, the area and dimensions shall include the entire portion within such background or frame.

2. For a sign comprised of individual letters, figures or elements on a wall or similar surface of the building or structure, the area and dimensions of the sign shall encompass a regular geometric shape (rectangle, circle, trapezoid, triangle, etc.), or a combination of regular geometric shapes, which form, or approximate, the perimeter of all elements in the display, the frame, and any

applied background that is not part of the architecture of the building. When separate elements are organized to form a single sign, but are separated by open space, the sign area and dimensions shall be calculated by determining the geometric form, or combination of forms, which comprises all of the display areas, including the space between different elements.

Sign Area examples

Individual letters with no background
Sign Area = 14.25 square feet

Framed sign with background
Sign Area = 22.5 square feet

3. For a freestanding sign, the sign area shall include the frame, if any, but shall not include:

    a. A pole or other structural support unless such pole or structural support is internally illuminated or otherwise so designed to constitute a display device, or a part of a display device.

    b. Architectural features that are either part of the building or part of a freestanding structure, and not an integral part of the sign, and which may consist of landscaping, building, or structural form complementing the site in general.

4. Multi-faced Signs.

    a. Signs with two (2) faces. If the interior angle between the two (2) sign faces is 15 degrees or less, the sign area is of one sign face only. If the angle between the two (2) sign faces is greater than 15 degrees, the sign area is the sum of the area of the two sign faces.

    b. Signs with more than two (2) faces. The sign area is the sum of the areas of all sign faces.

C. Maximum Total Sign Area. The total sign area of a business unit shall be limited to two (2) square feet of sign per one (1) linear foot of business façade. Only primary and secondary business façades shall be included in this calculation. Except for freestanding signs, area allowances for signs may be utilized only on the side of the building from which they are calculated. Specific sign types included in the maximum total signage area are established in §410-67 below.

D. Minimum Transparency. The total area of each window covered or obscured shall not exceed 50%. The calculation of this area shall include, but is not limited to, all signs, permanent or temporary, and all notices, flyers, posters, and merchandise advertisements. Address signs, hours of operation, and similar shall not be included in this calculation. The total area of each door window covered or obscured shall not exceed 10%. Temporary signs, including but not limited to notices, flyers, posters, merchandise advertising signs, et cetera, shall not be permitted in any windows located in doors used by the public.

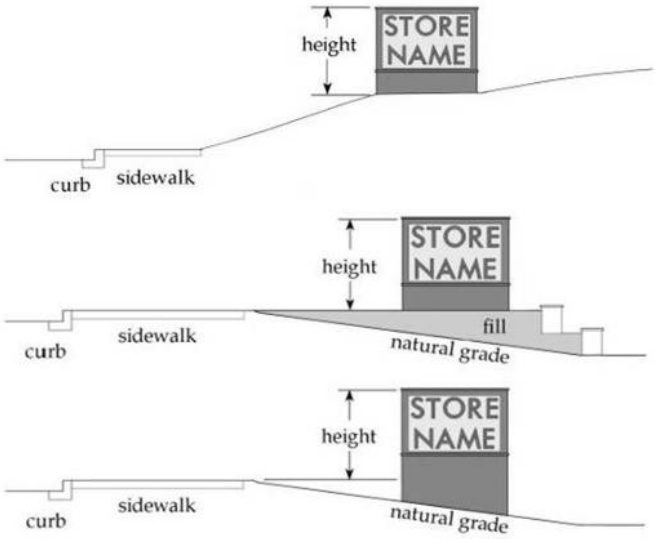
E. Sign Height.

1. Freestanding Signs (Ground Signs and Pole Signs). The sign height is measured as the vertical distance from the average elevation of the finished grade within an eight-foot radius from all sides of the sign at its base to the top of the sign, exclusive of any filling, berming, mounding, or landscaping solely for the purpose of locating the sign (e.g. – man-made grade change).

    a. If the natural grade at the base of a sign is higher than the grade of the adjacent road, the sign height shall be measured from the base of the sign.

b. If the natural grade at the base of a sign is lower than the grade of the adjacent road, the height of the sign shall be measured from the top of the curb elevation.

Freestanding Sign Height examples



F. Sign Illumination. Unless otherwise specified in this Article, allowed permanent signs may be non illuminated, or illuminated by internal light fixtures, halo illuminated, or external indirect illumination; temporary signs may not be illuminated.

1. Electrical elements. All wiring, fitting and materials used in the construction, connection and operation of electrically illuminated signs shall be in accordance with the provisions of §225-4 of the Code of the City of Binghamton.

2. All illumination for signs shall comply with the regulations as set forth in §410-24(J) of the City of Binghamton Zoning Ordinance.

3. All electrical signs must be manufactured by a licensed electronic sign company and shall be labeled with the appropriate UL or ETL label as required by the NEC Code and the UL 48 Standards, or their most recent addendum, prior to the installation of the sign.

4. Externally Illuminated Sign Standards

   a. Except as provided in subsection b, externally illuminated signs shall be illuminated only with steady, stationary, shielded light source, directed so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property.

   b. Bare bulb illumination. Permitted for a theatre/cinema as accent lighting around the outside edge of a changeable copy sign.

5. Neon Sign Standards. Neon tubing may be used in conjunction with other types of materials to artistically emphasize the business name or logo.

6. A static LED display may be used in conjunction with a freestanding sign, provided it meets the following criteria:

   a. A static LED display may be used in conjunction with a freestanding sign, provided it does not occupy more than 1/3 (approximately 33.3%) of the freestanding sign's area.

b. A static LED display may not change more than once per 60 seconds. c. A static LED display must have an automatic dimmer control to reduce display brightness after dusk

7. Electronic Message Center (EMC) Signs.

   a. Any message or portion of an image or message must have a static display for a minimum duration of 10 seconds.

   b. Transition time between content may not exceed 2 seconds.

   c. No portion of the image or message may flash, scroll, twirl, change color, or in any manner imitate movement.

   d. All EMC signs shall be equipped with a sensor or other device that automatically determines the ambient illumination and must be programmed to automatically dim according to ambient light conditions. The nighttime illuminance of an electronic message center shall not increase ambient lighting conditions by more than 0.3 footcandles, as measured by a footcandle meter (also known as a "luxmeter"), when measured perpendicular to the electronic message center face at a distance determined by the following formula: Measure distance (ft) = √[area of EMC sign (in sq ft) x 100]

   e. EMC signs must have an automatic dimmer control to produce a distinct illumination change from the higher illumination level to a lower illumination level.

G. Setbacks. All minimum setbacks for signage shall be measured from any property line to the closest portion of the signage structure, including, but not limited to any: sign face; frame; supporting pole(s) or structure(s); or lighting devices attached to the sign or its structure.

H. Structure and Installation

1. Supporting Structures. The construction and structural components of all signs shall be in accordance with the standards and regulations of the New York State Building Construction Code, Fire Code of New York State, Mechanical Code of New York State and the Electrical Code of New York State.

2. Raceways and Cabinets.

   a. Raceways shall not be included in the sign area measurement, provided the raceway does not extend beyond any letters, symbols, or images includes in the sign.

   b. Where a raceway or cabinet provides contract background color to the sign copy, the colored area is counted in the sign area measurement.

   c. Signs with raceways or cabinets cannot extend beyond the face of the building façade by more than ten (10) inches.

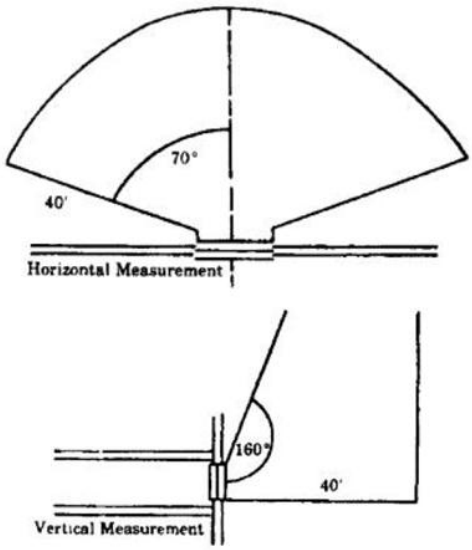
3. All signs shall be secured in a manner sufficient to ensure that they will remain attached to the building or structure.

4. Obstruction of accessways. No sign or sign structure shall obstruct free ingress or egress from a fire escape door, window, sidewalk or other required accessway.

5. Obstruction of light, air or ventilation. No sign shall be erected or maintained within the zone of light obstruction for any window opening into any habitable room of any residential unit. The zone of light obstruction is a segment of a cone described horizontally by an arc drawn from the center line to the window, measured horizontally, extending to 70° on either side of the center line, at a radius of 40 feet, and described vertically by the space between a plane extending

horizontally from the window sill and a plane extending from the top of the window at an angle of 160° to the face of the building.

Obstruction of Air and Light

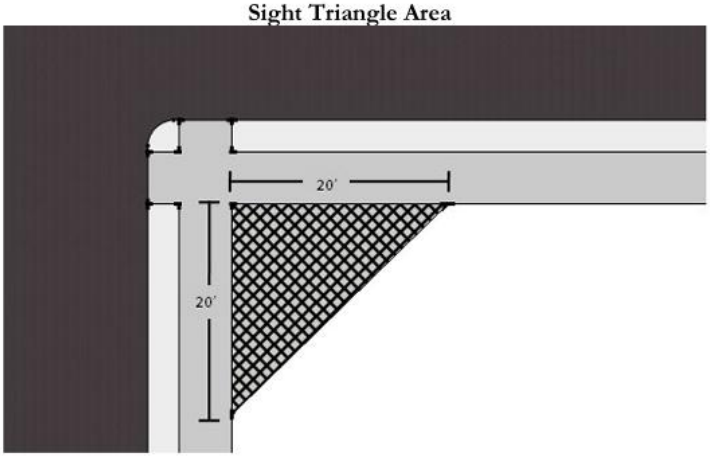


I. Traffic Safety.

1. Traffic control. No sign shall be maintained at any location where, by reason of its position, size, shape, content, lighting, or color, it may obstruct, impair, obscure, interfere with the view of, or be confused with, any traffic-control sign, signal or device, or where it may interfere with, mislead or confuse traffic.

2. Sight Triangle.. For parcels located at the corner of two intersecting streets, a clear sight triangle shall be maintained. The sight triangle shall be the area formed by measuring a distance of 20 feet from the corner of the parcel along the lot lines and connecting the end points so as to establish a triangle on the area of the lot adjacent to the street intersections. No sign, nor any part of a sign, other than a supporting pole or brace measuring 18 inches or less in width or diameter, shall be located between three (3) feet and 10 feet above the grade within this sight triangle.

Sight Triangle Area



J. Sign Maintenance

1. Responsibility. The owner of a sign and the owner of the premises on which each sign is located shall be jointly and severally liable to maintain such sign, including its illumination sources, in neat and orderly condition and good working order at all times, and to prevent the development of any corrosion, rotting or other deterioration in the physical appearance or safety of such sign. This includes graffiti, peeling paint, faded colors and damaged materials.

2. Unsafe signs. Unsightly, damaged, deteriorated sign or signs in danger of falling shall be put in order or removed upon written notice from the Building Inspector. Immediate compliance is expected for the repair or removal of unsafe signs. If compliance is not achieved within the time period specified in such notice, the sign shall be repaired or removed by the City and the costs assessed to the sign owner.

K. Abandoned Signs, Removal. The property owner is responsible for the removal of signage upon termination of occupancy or use of premises. Written permission of the owner of a property is required in the application for a permit to erect any sign. In giving written permission, the owner of the property assumes full financial responsibility for removal of the signage within 30 days from termination of occupancy or use. Failure to remove may result in removal by the City, with all charges incurred assessed to the property owner.

§410-63. Design Criteria. [Amended 2-4-2015 by Ord. No. 15-5]

A. Minimum Design Criteria. Sign applications shall be reviewed according to the following minimum design standards:

1. Signs shall enhance the overall appearance, image, and design character of the building and site.

2. Signs shall be simple and clear so as not to distract moving traffic.

3. Signs shall be architecturally integrated into the building by relating scale, location, sign type, style, materials, and colors to the architectural style and size of the building or business unit.

4. Placement of signage shall not obscure or overlap architectural elements.

5. Illuminated signs should be oriented away from adjoining residential properties whenever possible.

6. Raceway cabinets, where used as an element of wall mounted signs, shall match the building color at the location of the building where the sign is located.

7. Signage in designated Historic Districts and signage located on designated Local Landmark Historic properties shall be in conformance with the City of Binghamton Historic Design Guidelines.

B. Preferred Design Criteria and Incentives. Applicants are encouraged to take proactive steps to improve the quality and design of signage in the City of Binghamton. The following are the City's preferred design standards. Sign applications meeting these optional, increased standards shall be eligible for the incentives as specified below. The incentive bonuses shall be increased signage area based on the square foot allowed for each sign as established in §410-67.1 below. Any bonus shall be applied only to the specific sign meeting the preferred standards; area bonuses shall not be applied to the maximum total sign area permitted for the business unit as established in §410-62 above.

Example:

Max. Area	Bonus #1	Bonus #2	Bonus #3	Total Area
100 sq ft	10% of 100 = 10 sq ft	N/A	N/A	110 sq ft
100 sq ft	10% of 100 = 10 sq ft	15% of 100 = 15 sq ft	N/A	125 sq ft
100 sq ft	10% of 100 = 10 sq ft	15% of 100 = 15 sq ft	20% of 100 = 20 sq ft	145 sq ft

1. Incorporation of a Distinctive Logo. Distinctive or unique logos or images provide visual interest to the streetscape and help attract the attention of customers, and are encouraged. Signs that incorporate a unique and distinctive logo, rather than a generic image, shall receive a maximum area bonus of 10% of the allowed square footage. Common, widely used trademarked corporate logos are not eligible for this bonus.

2. Use of Individually Cut Letters. Panel or box signs, or signs with a single cabinet containing all of the content, are discouraged. Signs which use individual cut letters, such as pan channel cut letters, or projecting or ground signs with a three-dimensional textured surface that is integral to its design, such as extensively carved, routed, or sandblasted signs, shall receive a maximum area bonus of 15% of the allowed square footage.

3. Simplified Content. Signs which include information such a telephone numbers, general business information, or other secondary content, are discouraged. Signs which limit the content to the business name and/or a distinctive image or logo, if any, shall receive a maximum area bonus of 5% of the allowed square footage.

4. External or Halo Lighting. Internally illuminated signs can become a distraction and a visual nuisance, so they are discouraged. Signs which use properly shielded external illumination or backlit, or halo, illumination as strongly encouraged. Signs which use either properly shielded external illumination or halo lighting shall receive a maximum area bonus of 10% of the allowed square footage.

5. Signs on Awning Valences. Awning signs located on an awning valence, instead of the awning face, shall not be counted toward the total signage area for the business unit, provided the valence does not hang more than nine (9) inches down from the bottom of the awning frame.

6. Voluntary Removal of a Legally Non-Conforming Sign. Any applicant voluntarily removing an active pre-existing non-conforming sign in order to comply with these regulations, shall receive a maximum area bonus of 20% of the allowed square footage. This area bonus shall only apply to signs replaced beginning from the effective date of this legislation until 31 December 2015.

§410-64. Signs Specifically Prohibited, All Districts.

The following signs are prohibited in all districts and new signs shall not be erected. Existing signs are grandfathered and must be maintained or removed at the request of the Building Inspector.

Q. Off-Premise Advertising signs ("Billboards"). Off-Premise Advertising signs are expressly prohibited except upon permit issued by the Common Council as provided herein.

1. Common Council approval. Within 30 days, or such longer period as may be agreed upon by the applicant, of receipt and review of the written recommendations of the Planning Commission, the Common Council shall either deny the permit or, by ordinance duly adopted, approve the permit, with or without modifications to be accepted by the applicant as a condition of such approval. The failure of City Council to act within the aforementioned time period shall be deemed a final denial of the permit.

2. Review by the Planning Commission. Before consideration of the Common Council, an applicant shall first submit an application to the Planning Commission for review. The Planning Commission shall consider the application at the next regularly scheduled meeting and thereafter forward to the Common Council its written recommendation within 30 business days following such meeting. In its report, the Planning Commission may recommend approval, approval with modification or denial. In reaching its decision, the Planning Commission shall consider:

a. Whether the proposed sign will have a substantial or undue adverse effect upon adjacent properties, the character of the neighborhood, traffic safety, and other matters affecting the public health, safety and general welfare.

b. Whether the proposed sign will be constructed or arranged so as not to dominate the immediate vicinity or interfere with the development or use of neighboring property.

c. Whether the proposed design will result in the destruction, loss or damage of any natural, scenic or historic features of significant importance.

d. Whether the proposed design will be compatible with the physical environment and aesthetically harmonious with the surrounding area.

e. Whether the proposed location and placement of the sign will create any traffic or safety hazards.

f. Whether the placement of the sign is necessary or desirable to provide a service which is in the interest of public convenience or which contributes to the general welfare of the community.

g. Whether the proposed sign, when considered with all other signage in the vicinity, will result in an excessive number of signs so as to result in a negative impact on the visual aesthetic of the area.

R. Signs posted on public property per Chapter 163 of the City of Binghamton Code of Ordinances, except as provided for in §410-67.2 below ("Standards for Temporary Sign Types") and Chapter 327 of the City of Binghamton Code of Ordinances, "Rights-of-Way, Use Of." The City reserves the right to remove any such unauthorized sign on public property immediately and without notice.

S. Mechanically moving signs including but not limited to: signs which spin or rotate; signs which, in whole or in part, pivot or wave; tri-vision signs or signs with multiple faces which periodically rotate into view; signs with multiple faces on a roll.

T. Portable reader signs as defined in §410-61 above.

U. Signs which purport to be, or are an imitation of, or resemble and official traffic sign or signal.

V. Signs which, by reason of their size, location, movement, content, coloring, or manner of illumination, may be confused with or construed as a traffic control sign, signal, or device or the light of an emergency vehicle, or which obstruct the visibility of any traffic or street sign or signal device.

§410-65. Signs Allowed by Right.

The following signs are permitted in any district without design review, sign permit, or fee:

A. Address signs, provided that such signs are limited to no more than one sign per occupancy, and shall be limited to not more than two square feet, and if a ground sign or pole sign not more than four (4) feet above grade.

B. Signs required by law.

C. Governmental signs.

D. Flags and emblems: flags and emblems of a governmental, civic, philanthropic, educational or religious organization. Shall not contain any advertising content.

E. Historical or architectural designation signs: limited to not more than one wall or ground sign per structure, building or site. Such sign may not be more than three square feet in area and, if a ground

sign, shall be not more than four feet above grade to top of sign, and shall be set back at least five feet from any lot line. Such signs must be approved by CAUD.

F. Memorial signs, provided that such signs are an integral part of the building or structure, or are made of a durable material such as bronze, stone, or concrete. Such signs must be approved by CAUD.

G. Holiday decorations, provided that such signs shall be displayed for a period of not more than 60 consecutive days, nor more than 10 days following the holiday in connection with which they are displayed.

H. Noncommercial signs, provided that such signs are not more than 32 square feet in area if located in a commercial or industrial district or four (4) square feet in a residential district; are limited to not more than one message or topic per street frontage; are located entirely on private property pursuant to the owner's consent; and are maintained as so to prevent any corrosion, rotting or other deterioration in the physical appearance or safety of such sign in accordance with §410-62(J) above..

I. Private event signs: temporary signs advertising private events, such as bingo games, fairs, and the like; provided that such signs are no more than 32 square feet in area; and are erected no more than 30 days prior to the event; and removed within 10 days following the conclusion of the event.

J. Private sale signs, provided that such signs are no more than five (5) square feet in area; are located entirely on the premises where such sale is to be conducted or on other private property pursuant to the owner's consent; are clearly marked with the name, address and telephone number of the person responsible for the removal of such sign; are erected not more than 24 hours in advance of such sale; and are removed on the day following the conclusion of such sale.

K. Real estate signs: one real estate sign per street frontage per lot, provided that the sign does not exceed four (4) square feet in area per residential lot, 32 square feet in area per commercial lot, or 50 square feet in area per industrial lot. Real estate signs shall be removed within two weeks following the sale or rental of the property.

L. Warning signs, provided that such signs are wall or ground signs, are not more than three square feet in area each, and are illuminated only by an indirect source of light.

M. Roadside mailbox bearing a name and/or address number and installed according to U.S. Postal Service requirements.

§410-66. Allowable Sign Type and Location Matrix.

Except as specified above in §410-65, signs allowed in each Zoning District shall be as follows:

Schedule IV-A. Permanent Signs

	R-1	R-2	R-3	C-1	C-2	C-3	C-4	C-5	C-6	I-1	I-2	I-3
Accessory Signs				X	X	X	X	X	X	X	X	X
Awning Signs				X	X	X	X	X	X	X	X	X
Canopy Signs				X	X	X	X	X	X	X	X	X
Changeable Copy Sings				X	X	X	X				X	X
EMC Signs				X								X
Ground Signs				X	X	X	X	X		X	X	X
Marquee Signs				X	X	X	X	X		X	X	X
Pole Signs	#	#	#	X		X	X				X	X
Projecting Signs				X	X	X	X				X	X
Walls Signs	#	#	#	X	X	X	X	X	X	X	X	X
Window Signs				X	X	X	X	X	X	X	X	X

Schedule IV-B. Temporary Signs

	R-1	R-2	R-3	C-1	C-2	C-3	C-4	C-5	C-6	I-1	I-2	I-3
Banner Signs				X	X	X	X	X	X	X	X	X
Construction Signs				X	X	X	X	X	X	X	X	X
Free-Standing Vertical Banner Signs				X	X		X				X	X
Merchandise Advertising Signs, Exterior				X			X				X	X
Merchandise Advertising Signs, Window				X	X		X	X			X	X
Sandwich Board Signs				X	X	X	X	X	X		X	X

X – Allowed Sign Type

– Strictly as accessory to an approved Home Occupation. Limit 1 sign per parcel, maximum area of 2 square feet, no more than 4 feet above grade. Illumination prohibited.

§410-67.1. Standards for Permanent Sign Types.

All permanent signs require a valid permit, as set forth above in §410-59. Maximum sign area per business unit shall be determined as set forth in §410-62 above. Except as specified for residential districts in §410-66 above, the following standards shall apply to all permanent sign types.

A. Accessory Signs.

1. Maximum sign area: 5 square feet
2. Maximum height, building mounted: 8 feet from grade
3. Maximum height, freestanding: 4 feet from grade
4. Maximum number of accessory signs: 2 per business unit frontage
5. Illumination: Permitted
6. Counts toward total signage area: No

B. Awning Signs.

1. Maximum sign area: 50% of the awning area
2. Minimum height to bottom of the awning: 8 feet above grade
3. Maximum height of awning: Top of the awning may not extend beyond the first floor of the building
4. Maximum number of awning signs: 1 per awning face
5. Illumination: Permitted.
6. Counts toward total signage area: Yes

C. Canopy Signs.

1. Maximum sign area: 8 square feet
2. Minimum height at the bottom of the sign: 10 feet above grade
3. Maximum projection: 5 feet from building
4. Maximum number of canopy signs: 1 per business unit
5. Minimum spacing: 10 feet from any other canopy sign
6. Illumination: External illumination only
7. Counts toward total signage area: Yes

D. Changeable Copy Signs.

1. Maximum sign area: 75% of permitted sign face area, see below
2. Maximum number of changeable copy signs: 1 per parcel
3. Illumination: Permitted
4. Counts toward total signage area: Yes
5. Additional Requirements:
    a. Permitted only as an integral part of a wall sign or a freestanding (pole or ground) sign.
    b. The allowed area of the changeable copy sign shall be limited to 75% of the allowed are of the wall sign or freestanding sign of which it is a part.
    c. Area incentives as established in §410-62.2 shall not apply to changeable copy signs.

E. Electronic Message Center (EMC) Signs.
1. Maximum sign area: 32 square feet
2. Maximum height, pole-mounted: 25 feet from grade
3. Minimum height, pole-mounted: 10 feet from grade
4. Maximum height, ground: 8 feet from grade
5. Minimum setback: 5 feet from any property line
6. Minimum spacing: 50 feet from another other EMC sign
7. Maximum number of EMC Signs 1 per parcel
8. Illumination: Permitted, in accordance with §410-61.
9. Counts toward total signage area: Yes
10. Additional Requirements
    a. An EMC sign may be installed an integral part of, or in place of, a freestanding (pole or ground) sign; an EMC sign shall not be installed as a separate sign on the same parcel as another freestanding sign.
    b. Cannot be located within 200 feet of a residential district or designated historic district.
    c. Applicant must demonstrate compliance with §410-61(F) above.
    d. Area incentives as established in §410-62.2 shall not apply to EMC signs.

F. Ground Signs.
1. Maximum sign area: 40 square feet
2. Maximum height: 8 feet from grade, as established in §410-61
3. Minimum setback: 5 feet from any property line and/or driveway
4. Maximum number of ground signs: 1 per street frontage
5. Illumination: Permitted
6. Counts toward total signage area: Yes
7. Additional requirements
    a. Compliance with §410-62(I) – Sight Triangle, as set forth above.

G. Marquee Signs.
1. Maximum sign area: 75% of marquee structure's height; 75% of its width
2. Maximum number of marquee signs: 1 per marquee; maximum 1 per business unit façade
3. Allowed Locations: Primary façades only
4. Minimum height at the bottom of the sign: 10 feet above grade

5. Maximum projection from marquee: 10 inches
6. Illumination: Permitted
7. Counts toward total signage area: Yes

H. Pole Signs.
1. Maximum sign area: 50 square feet
2. Maximum height at the top of the sign: 25 feet from grade
3. Minimum setback: 5 feet from any property line
4. Maximum number of pole signs: 1 per parcel
5. Illumination: Permitted
6. Counts toward total signage area: Yes
7. Additional requirements
    a. Compliance with §410-62(I) – Sight Triangle, as set forth above.

I. Projecting Signs.
1. Maximum sign area: 20 square feet
2. Minimum height at the bottom of the sign: 10 feet above grade
3. Maximum projection: 5 feet from building
4. Maximum number of projecting signs: 1 per business unit
5. Minimum spacing: 10 feet from any other projecting sign
6. Illumination: External illumination only
7. Counts toward total signage area: Yes
8. Additional Requirements
    a. Projecting signs shall not extend beyond the top of the building.

J. Wall Signs.
1. Maximum sign area, primary frontage: 2 square feet per linear foot of business frontage
2. Maximum sign area, secondary frontage: 1 square foot per linear foot of business frontage
3. Maximum number of wall signs: 1 sign per frontage
4. Maximum length of sign: 80% of the business façade
5. Maximum projection from building façade: 10 inches
6. Illumination: Permitted
7. Counts toward total signage area: Yes
8. Additional Requirements
    a. The wall sign shall not extend beyond the top of the wall to which it is attached

K. Window Signs.
1. Maximum sign area: 50% of the window
2. Maximum number of window signs: 1 sign per window, 2 signs per frontage
3. Illumination: External illumination only
4. Counts toward total signage area: Yes

§410-67.2. Standards for Temporary Sign Types.

The followings standards shall apply to all temporary sign types. Temporary signs are not eligible for the incentives established in §410-62.2.

A. Banner Sign.

1. Maximum sign area:	1 square foot per linear foot of primary frontage
2. Maximum number of banner signs:	1 per business unit
3. Maximum length of banner sign:	50% of the business façade
4. Maximum display period:	Up to 30 days, not more than 3 times in 12 months
5. Illumination:	No
6. Temporary Sign Permit:	Required
7. Counts toward total signage area:	No

8. Additional Requirements
    a. a. All banners must be anchored at all corners so as to keep the banner secured to the structure.

B. Construction Signs.

1. Maximum sign area:	32 square feet
2. Maximum number of construction signs:	1 per street frontage
3. Illumination:	No
4. Temporary Sign Permit:	Required
5. Counts toward total signage area:	No

6. Additional Requirements
    a. All such construction signs must be removed within 7 days after construction is completed.

C. Free-Standing Vertical Banners.

1. Maximum sign width:	2 feet at the widest point
2. Maximum sign height:	8 feet above grade
3. Maximum number of vertical banners:	1 per business unit
4. Maximum display period:	During business hours only
5. Illumination:	No
6. Temporary Sign Permit:	Required
7. Counts toward total signage area:	Yes

8. Additional Requirements
    a. The applicant must maintain a clear and unobstructed path of at least five (5) feet around the sign and any other obstructions (such as, but not limited to: trees, planters, or other landscaping; light poles or traffic signals; fire hydrants; parking meters; public sign posts; utility boxes; et cetera) so as to not impede pedestrians.
    b. The applicant must provide an insurance rider naming the City of Binghamton as an additional insured on a primary noncontributory basis or other form found acceptable by the City of Binghamton Corporation Counsel.

D. Merchandise Advertising Signs, Exterior.

1. Maximum sign area:	4 square feet
2. Maximum number of signs:	1 per 300 feet of business frontage
3. Minimum set back:	10 feet from any property line and/or driveway
4. Minimum spacing:	100 feet from any other exterior merchandise sign
5. Illumination:	No

6. Temporary Sign Permit: Required
7. Counts toward total signage area: Yes

E. Merchandise Advertising Signs, Window.
1. Maximum sign area: 25% of the window
2. Maximum number of signs: 1 per window, maximum
   4 per business unit
3. Illumination: Permitted, no flashing, scrolling, or moving
4. Temporary Sign Permit: Required
5. Counts toward total signage area: Yes
6. Additional Requirements
   a. a. Window Merchandise Advertising Signs are not permitted in any door windows.

F. Sandwich Board Sign.
1. Maximum sign area: 8 square feet
2. Maximum number of sandwich board signs: 1 per business unit
3. Maximum display period: During business hours only
4. Illumination: No
5. Temporary Sign Permit: Required
6. Counts toward total signage area: Yes
7. Additional Requirements
   a. The applicant must maintain a clear and unobstructed path of at least five (5) feet around the sign and any other obstructions (such as, but not limited to: trees, planters, or other landscaping; light poles or traffic signals; fire hydrants; parking meters; public sign posts; utility boxes; et cetera) so as to not impede pedestrians.
   b. The applicant must provide an insurance rider naming the City of Binghamton as an additional insured on a primary noncontributory basis or other form found acceptable by the City of Binghamton Corporation Counsel.

§410-68. Variance Procedure.

Where a sign permit application is denied, the applicant is entitled to petition the Zoning Board of Appeals, which shall hear and decide all appeals pursuant to Article XIV of this chapter. Such appeals shall be taken by filing for such a variance with the Zoning Board of Appeals through the Department of Planning, Housing, and Community Development. In making a decision, the Zoning Board of Appeals shall consider the standards applicable to an area variance.

§410-69. Violations and Penalties.

A. Violations. The Zoning Officer or Supervisor of Building and Construction shall have the authority to enforce the removal of any signs that are in violation of this chapter. Any person, firm, corporation or other entity who uses or maintains or causes to be used or maintained any sign or any part thereof for any purpose other than the uses permitted therefor by this chapter, or who erects, enlarges, moves, alters or maintains, or causes to be erected, enlarged, moved, altered or maintained, any sign or any part thereof, except in accordance with the provisions of this chapter or any regulation made under authority conferred thereby, or who uses or maintains, or causes to be used or maintained, any sign or any part thereof which has been erected, enlarged, moved or altered, other than in conformity with the provisions of this chapter, or who otherwise violates or causes to be violated any provision of this chapter, or who allows any violation of this chapter on premises owned or leased by him, or otherwise under his or her control, including his or her agent or contractor, shall be guilty of a violation.

B. Procedure. In the event that any sign is erected, constructed, reconstructed, altered, converted, relocated or maintained, or any sign or premises is used in violation of this chapter, or any regulation made pursuant thereto, or any authority conferred thereby, the Zoning Officer, the Supervisor of Building and Construction, or their designee shall serve written notice, either by personal service or by certified mail, return receipt requested, addressed to the premises of such violation, on the person or corporation permitting or committing the same. Unless action to correct the violation is taken within 10 days from the date of service of the notification, that person or entity shall be considered in violation of this chapter. If, after 30 days from the aforementioned date, the violations have not been corrected, the Zoning Officer, Supervisor of Building and Construction or their designee, shall cause the removal of such sign and charge the owner of the sign and/or premises for the cost of removal.

C. Penalties. The City may bring a civil action to recover a penalty, which shall not exceed $1500, or to imprisonment not to exceed 15 days, or both such fine and imprisonment, for any violation of any provision of this chapter; each day's failure to comply with such provision shall constitute a separate violation. The City may also maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain by injunction any violation.

§410-70. Nonconforming signs.

A. All permanent signs existing at the time of adoption of this chapter may continue although not in conformity with the provisions herein.

B. All temporary signs existing at the time of adoption of this chapter must be removed or brought into compliance the requirements of §410-67.2 above within 90 days of the adoption of this chapter.

C. Removal of nonconforming on-premises signs. Any existing sign that becomes nonconforming by virtue of this chapter, shall be removed, including any nonconforming support structures, when the business to which such sign is related ceases. No nonconforming sign shall be structurally altered, enlarged, moved or replaced, except as to bring the sign into conformance with this chapter.

ARTICLE XII, Nonconforming Use of Buildings, Structures and Land

§ 410-71. Intent.

The intent of this Article XII is to provide regulations for the use of buildings, structures and land which do not comply with the provisions of this chapter and to specify the circumstances and conditions by which such nonconforming use may be continued or shall be discontinued. It is the intent of this article to permit these nonconforming uses to continue until they are removed, but not to encourage their survival.

§ 410-72. Continuance of existing buildings, structures and uses.

The lawfully permitted use of any building, structure or land existing at the time of adoption of this article, or any subsequent amendment thereto, may be continued in accordance with the provisions of this Article XII even though such use does not conform to the regulations and standards specified herein for the district in which such building, structure or land is located. For the purposes of this chapter, a nonconforming use will be vested if at the time of adoption of this chapter, or any subsequent amendment thereto, the property owner has expanded substantial sums in reliance on valid permits issued by the City of Binghamton for a use which was permitted prior to the adoption of this chapter, or any subsequent amendment thereto, and shall not be required to comply with the site plan review procedure as set forth in Article IX of this chapter. For projects under construction, the entire building must be completed according to filed plans within two years from the effective date of this article.

§ 410-73. Transfer of rights.

Nonconforming use rights, subject to the provisions of this Article XII, remain with the land when title is transferred.

§ 410-74. Additions and enlargements.

A. Modifications. Except as otherwise set forth in this § 410-74, the nonconforming use of any building, structure or land shall not be extended, enlarged, moved or added to in any manner unless such nonconforming use is changed to conform to the regulations of the district in which it is located.

B. Nonconformity other than use. A building or structure which contains a permitted use but is nonconforming as to lot size, setback, coverage or height may be added to or enlarged if any such addition will be in compliance with the yard and height requirements of the district in which it is located and if any off-street parking nonconformity is not thereby increased.

C. Garage. An attached or detached garage may be constructed on a lot which contains a nonconforming dwelling unit, provided that such garage complies with the height and yard requirements for the district in which it is located.

§ 410-75. Permission to enlarge nonconforming use.

Notwithstanding the provisions of § 410-74, the Zoning Board of Appeals may grant permission for the alteration, enlargement, reconstruction, moving, replacement of, or addition to a nonconforming building, structure, or land use activity, provided:

A. The owner of such nonconforming building or structure can show that, unless such permission is granted, hardship and injustice will result.

B. The proposed alteration, enlargement, reconstruction, moving, replacement or addition will not substantially reduce neighboring property values or otherwise substantially alter the character of the neighborhood.

C. The proposed enlargement or addition does not exceed more than 25% of the total square footage of the building, based on the total square footage of the building at the time this chapter was adopted.

D. Such permission may be granted only after notice and public hearing as provided in §§ 410-93 and 410-94 of this chapter.

§ 410-76. Destroyed or damaged nonconforming building, structure or land use activity. [Amended 9-9-09 by Ord. No. 31-2009; Amended 5-23-12 by Ord. No.37-2012]

A. Discontinuance of nonconformity. A building, structure or land use activity which is nonconforming in the district in which it is located and which is totally destroyed or damaged to an extent which exceeds 50% of the physical structure on the land shall not thereafter be restored, rebuilt or continued unless there is compliance with the regulations of said district. Notwithstanding the foregoing:

1. In the R-1 Zoning District a two-unit dwelling which is totally destroyed or damaged to an extent which exceeds 50% of the physical structure may be restored, rebuilt or continued with the same, or less, floor area and cubic content, with the same number of bedrooms, or less, as provided in the most current assessment roll or for which the owner has received a certificate of occupancy and with the same, or an improved general site layout as that of the original structure or use and;

2. In the R-1 Zoning District a three-unit dwelling which is totally destroyed or damaged to an extent which exceeds 50% of the physical structure may not be restored, rebuilt or continued as a three-unit dwelling; however, it may be restored, rebuilt or continued as a two-unit dwelling with the same, or less, floor area and cubic content, with the same number of bedrooms as previously approved for two units 1 and all as established in the most current assessment roll or

for which the owner has received a certificate of occupancy and with the same, or an improve, general site layout as that of the original structure or use. Reconstruction must be substantially complete within one year of the date of such damage and the owner must obtain a certificate of occupancy within eighteen months of said date. The failure to complete reconstruction within such time frame will be deemed abandonment of the nonconforming use.

[1] If the three-unit dwelling had one unit with 3 bedrooms, one unit with 2 bedrooms and one unit with one bedroom, then the renovated one or two-unit dwelling would be limited to five bedrooms. If the three-unit dwelling two bedrooms in each unit, then the renovated one or two-unit dwelling would be limited to four bedrooms.

B. Restoration of nonconformity. A nonconforming building, structure or land use activity which is damaged to the extent of 50%, or less, of the physical structure on the land may be rebuilt or restored with the same, or less, floor area and cubic content and with the same, or an improved, general site layout as that of the original structure or use. Reconstruction must be commenced within one year of such damage and be completed within two years of said date.

C. Unsafe buildings. Notwithstanding the above provisions, any damaged nonconforming structure which is determined to be unsafe or a hazard to public health or safety shall be subject to all other regulations of the City of Binghamton Code related to unsafe buildings.

§ 410-77. Change of use of nonconforming building, structure or land.

A. When a nonconforming use has been changed to a conforming use, it shall not subsequently be changed back to any nonconforming use unless a use variance is granted by the Zoning Board of Appeals.

B. Upon application, any nonconforming use of land, building, or structures may be changed to a less intensive nonconforming use upon approval by the Zoning Board of Appeals. A less intensive use shall mean a use in which there will be fewer people either as customers or employees, less vehicular traffic, shorter hours of operation, or more compatibility with the surrounding land uses.

§ 410-78. Cessation of use of nonconforming building, structure or land.

A. If any nonconforming use of a building, structure or land ceases, for any reason, for a period of 12 consecutive months, such nonconforming use shall not thereafter be reestablished. Any future use of such building, structure or land shall be in conformity with the standards specified by this chapter for the district in which such building, structure or land is located.

B. Upon application, prior to the expiration of the 12 consecutive months, the Zoning Board of Appeals may extend the period for up to six additional months, provided that the owner of said building or premises can demonstrate that he or she has made reasonable effort to resume the nonconforming use during the one-year period.

§ 410-79. Termination of nonconforming use for cause.

The Supervisor of the Office of Building and Construction may revoke a certificate of occupancy issued to a nonconforming use upon satisfactory proof that the conditions of operation or maintenance of premises are such as to constitute a public nuisance, by reason of injury to the adjacent property or to the general neighborhood.

§ 410-80. Removal of building or structure.

If any building or structure in which a nonconforming use is conducted or maintained is hereafter removed, the subsequent use of land on which such building was located, and the use of any building subsequently built thereon, shall be in conformity with the standards specified by this chapter for the district in which such land is located.

§ 410-81. Maintenance and repair.

Nothing in this article shall prevent the renovation or repair of nonstructural members or the maintenance of a structure made necessary by ordinary wear and tear.

ARTICLE XIII, Administration and Enforcement

§ 410-82. Compliance required prior to issuance of permits.

No commission, board, agency, officer or employee of the City of Binghamton shall issue, grant or approve any permit, license, certificate or other authorization for any construction, reconstruction, alteration, enlargement or relocation of any building, or for any use of land or building that would not be in compliance with the provisions of this chapter and Local Law No. 3 of 1987, where applicable. Any permit or certificate issued for an application that does not comply with the provisions of this chapter shall be null and void.

§ 410-83. Enforcement.

This chapter, and any rules and regulations which have been or may be made in furtherance thereof, shall be enforced by the Zoning Officer and the Office of Building and Construction of the City of Binghamton. Such enforcement shall be in compliance with applicable provisions of this chapter. For purposes of enforcement and public health, safety and general welfare, a duly designated inspector from the Building and Construction Division may, from time to time, upon notice thereof and receipt of permission, enter and inspect any building or premises and may perform any other act or duty necessary for the proper enforcement of this chapter.

§ 410-84. Building and use permit.

A. Issuance.

   1. Building permits shall be required for any work which must conform to the Building Code of New York State, Residential Code of New York State, Energy Conservation Code of New York State, Plumbing, Mechanical and Fuel Gas Code of New York State or the Fire and Property Maintenance Code of New York State.

B. Excavation. Within one year after work on any excavation for a building has begun such excavation shall be covered over or filled by the owner to the normal grade. Any excavation or cellar hole, including those remaining after the demolition or destruction of a building from any cause, shall be fenced in immediately and covered over or filled within one year. If the owner fails to cover over or fill such excavation within 10 days of notice by the Supervisor of the Office of Buildings and Construction, the City Council may order said excavation to be covered or filled and may charge the owner of said property any costs connected therewith.

C. Filling/Grading. Any activity which deposits, moves, or rearranges natural material such as rock, gravel, sand and soil so as to modify the normal surface or subsurface condition of land, water bodies or watercourses shall be subject to applicable provisions of Chapter 227, Erosion Control, Part 1, Filling, Grading, Terracing and Drainage Work, of the City of Binghamton Code.

D. Denial. Where the proposed construction, alteration, or use of the building or land does not comply with the provisions of this chapter, the building and use permit shall be denied by the Supervisor of the Office of Building and Construction. Denial shall be in writing, stating the reasons thereof, a copy of which shall be given to the applicant.

E. Environmental assessment. For any proposed building or land use which is determined by the Supervisor of Building and Construction to be a Type I or an unlisted action in accordance with the State Environmental Quality Review Act of 1975 (SEQRA),EN and local regulations enacted pursuant thereto, the following provisions shall apply:

1. Referral. The permit application for such building or land use shall be referred to the Planning Department or the Planning Commission, as appropriate, for an assessment as to whether or not the proposed action may have a significant effect on the environment and require preparation of the draft environmental impact statement (DEIS).

2. Determination. Within 15 working days from receipt of the permit application by the lead agency, such application shall be processed and a written determination returned to the Supervisor of the Office of Building and Construction.

3. Procedure for DEIS. If, in the initial assessment of the application, it is determined that a DEIS is required, such determination will be transmitted in writing to the Supervisor of Building and Construction. Such determination letter will contain a procedure for preparation of the DEIS and identify the lead agency.

4. The Supervisor of Building and Construction shall not issue a building and use permit until either it is determined that there would be no significant environmental impact (a negative declaration) or the environmental impact process has been completed.

F. Revocation. The Supervisor of Building and Construction shall revoke a building and use permit if it is found that there is a deviation from the plans for which such permit was issued.

G. Term. Except as set forth to the contrary in Subsection F, a building and use permit shall become void 12 months from the date of issuance unless substantial progress has been made on the project described on such permit. The building and use permit shall be extended by the Supervisor of Building and Construction for an additional six months. Upon expiration of the building permit, the applicant shall apply for another building permit to complete the project. Only one such additional permit shall be granted, and the project must be completed within the allotted time frame of the second permit. For unusually large and complex projects, the Supervisor may determine that conditions warrant the waiving of this provision.

§ 410-85. Certificates of occupancy.

A. Issuance. To assure that all construction, enlargement, alteration and moving of any building, and all uses of land and buildings, including any changes in use, are in accordance with the authorized building and use permit and the terms of this chapter, a certificate of occupancy shall be required prior to occupancy. Such certificate shall be issued by the Supervisor of Building and Construction upon a determination of compliance with the standards and regulations of this chapter and any conditions that may have been attached to any required building and use permit.

B. Term. A certificate of occupancy shall be deemed to authorize, and is required for, initial or changed occupancy and use, or structural alteration of the building or changes to the land to which it applies. It shall continue to be in effect as long as such building or land, and the use thereof, remains in compliance with the provisions of this chapter, and pertinent amendments thereto, and with any attached conditions that were applicable when the certificate of occupancy was issued.

C. Temporary certificate of occupancy. Pending the issuance of a certificate of occupancy, a temporary certificate may be issued by the Supervisor of the Office of Building and Construction for a period not exceeding six months. Such temporary certificate shall be issued only under such conditions and restrictions as will adequately assure safety of the occupants and completion of all unfinished improvements required by this chapter and terms of the building and use permit.

D. Violation. Upon a determination by the Supervisor of the Office of Building and Construction that there is a violation of any of the provisions or requirements of this chapter with respect to any building or use, and upon service of notice in writing to the owner of record of such structure or land, the certificate of occupancy shall be null and void.

§ 410-86. Application for permit and certificate.

A. Procedure. Application for a building and use permit shall be made to the Supervisor of the Office of Building and Construction on forms provided. Upon completion of the project, the building permit applicant or an authorized agent shall request a certificate of occupancy inspection to determine compliance with all applicable codes, rules, and regulations prior to the issuance of the certificate of occupancy.

B. Requirements. Applications for a building and use permit shall be accompanied by the following information unless the need for such information is waived by the Supervisor of the Office of Building and Construction and so noted on the application form:

1. Two copies of a plan, drawn to scale, which clearly shows:

a. The shape and dimensions of the lot to be built upon or used.

b. The existing zoning for the lot and for all adjacent parcels.

c. Physical characteristics of the site, including topography, vegetation and drainage.

d. The location and size of all existing buildings that are to remain and all proposed new buildings.

e. The existing and proposed use of each building or part thereof, and of the lot.

f. The number of dwelling units proposed for each building.

g. The layout of required off-street parking and loading space with access and egress thereto.

h. The location and type of any required screening and landscaping, including site drainage.

i. The location and type of any proposed sign, exterior site lighting, and any proposed improvements other than a building.

j. Any other information with respect to the lot, buildings or adjacent lots that may be necessary to determine compliance with the provisions of this chapter.

2. Estimated cost of the buildings and other improvements proposed.

3. Seal of a licensed architect or engineer pursuant to § 410-84A.

C. Refusal of application. Failure to prepare adequate information and plans needed to review a proposal shall be cause for the Supervisor of the Office of Building and Construction to refuse to accept the application. Denial shall be in writing, stating the additional information and plans needed, and a copy shall be given to the applicant.

§ 410-87. Special permit and site plan approval procedure.

A. Referral. An application for a building and use permit for a proposed land use or activity which requires a special permit or site plan approval, as specified in Schedule I (§ 410-27) or Schedule II (§ 410-32) shall forthwith be referred by the Supervisor of the Office of Building and Construction to the Planning Department for processing and review. The Supervisor of the Office of Building and Construction shall inform the applicant of the provisions of this chapter for special permits (Article XIII) and site plan approvals (Article IX).

B. Authorization. No building and use permit shall be issued by the Supervisor of the Office of Building and Construction until the special permit or site plan review process of this chapter has been carried out and the application, with or without conditions, has been duly approved.

§ 410-88. Designated landmark and historic district and urban cultural park.

For any building or use permit related to land and or structure which is a designated landmark or in an historic district or an urban cultural park area, the provisions of § 410-39F(2) shall apply.

§ 410-89. Penalties for offenses.

A. Violations. Any person, firm, corporation or other entity who or which uses or maintains, or causes to be used or maintained, any building or premises or any part thereof for any purpose other than the uses permitted therefor by this chapter, or who erects, enlarges, moves, alters or maintains, or causes to be erected, enlarged, moved, altered or maintained, any building or any part thereof, or fails to comply with any or all conditions imposed by the Zoning Board of Appeals, Planning Commission, or Planning Department with regards to a site plan approval, except in accordance with the provisions of this chapter or any regulation made under authority conferred thereby, or who uses or maintains, or causes to be used or maintained, any building or any part thereof which has been erected, enlarged, moved or altered other than in conformity with the provisions of this chapter, or who otherwise violates or causes to be violated any provision of this chapter on premises owned or leased by him or her, or otherwise under his or her control, including his or her agent or contractor, shall be guilty of a violation of this chapter.

B. Penalties. Any violation of any provision of this chapter shall be deemed a violation, and any person found guilty thereof shall be liable to a minimum fine of $50 and which shall not exceed $1,000, or to imprisonment not to exceed 15 days, or both such fine and imprisonment, and each day's failure to comply with such provision shall constitute a separate violation.

C. Complaints of violations. Whenever a violation of this chapter occurs, any person may file a written complaint in regard thereto with the Office of Building and Construction or the Zoning Officer, which shall properly record such complaint and immediately investigate.

D. Procedure. In the event that any building or structure is erected, constructed, reconstructed, altered, converted, located, relocated or maintained, or any building, structure, land or premises is used in violation of this chapter or any regulation made pursuant thereto or any authority conferred thereby, in addition to other lawful remedies, any appropriate legal action or proceedings may be instituted to prevent the occupancy of such building, land or premises, or to prevent any illegal act, conduct, business or use in or about such premises. The Office of Building and Construction or the Zoning Officer shall serve written notice, either by personal service, regular mail, or by certified mail, return receipt requested, addressed to the premises of such violation, on the person or corporation permitting or committing the same, and, if such violation does not cease within such time as the Supervisor of Building and Construction or the Zoning Officer shall specify, he or she may institute such action as may be necessary to terminate the violation. Such notice may also be served by posting on the premises.

E. Maintenance of action by City. The City may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any provision of this chapter.

§ 410-90. Records and reports.

A. The Supervisor of Building and Construction shall keep a permanent record, including all pertinent maps and plans, of all applications for building and use permits and certificates of occupancy.

B. The Supervisor of the Office of Building and Construction shall also keep a permanent record of all violations of this chapter, whether reported by private citizens or by any commission, board, agency, officer or employee of the City, and such records shall show the disposition of all such violations.

C. The Supervisor of Building and Construction and the Zoning Officer shall keep a permanent record of all violations of this chapter, whether reported by private citizens or by any commission, board, agency, officer or employee of the City, and such records shall show the disposition of all such violations.

ARTICLE XIV, Appeals

§ 410-91. Zoning Board of Appeals-organization. [Amended 5-19-08 by Ord. No. 25-2008; Amended 12-21-11 by Ord. No. 11-52]

A. Establishment. As part of the administration of this chapter a Zoning Board of Appeals is hereby established.

B. Appointment and term. The Zoning Board of Appeals shall consist of five members appointed by the Mayor, each to serve a term of five years. At the expiration of the members now in office, the appointment of succeeding members to the Board shall be for terms so fixed that one member's term shall expire at the end of the calendar year in which such members were initially appointed. The remaining members' terms shall expire at the end of each year thereafter. At the expiration of each succeeding member's appointment, the replacement member shall be appointed for a term of five years. Vacancies occurring in said Board shall be filled in a like manner, but only for the unexpired period of such term.

C. Alternate members. The Mayor shall have the power to appoint one alternate Zoning Board of Appeals member in the event a member is unable to participate because of a conflict of interest. The alternate member shall possess all the powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes of the initial Zoning Board of Appeals meeting at which the substitution is made. The alternate Board member will serve a term of five years.

D. Removal of members. The Mayor shall have the power to remove, after a public hearing, any member of the Zoning Board of Appeals for cause. Any Zoning Board of Appeals member may be removed for noncompliance with any minimum requirements relating to meeting attendance and training as established by City Council by local law or ordinance.

E. Chairperson. The Zoning Board of Appeals shall select a Chairperson and Vice Chairperson from among its own members. In the absence of such Chairperson, the Vice Chairperson will serve as the Acting Chairperson. All meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at other times as such Board may determine. Such Chairperson, or in his or her absence the Acting Chairperson, may administer oaths and compel the attendance of witnesses.

F. Meetings. Regular meetings shall be held at least once each month but may be cancelled if there is no action pending. Special meetings may be held at such other times as the Chairperson may determine. All meetings shall be open to the public.

G. Voting requirements.

1. Decision of the Board. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Officer acting as the official charged with the enforcement of this chapter, or to decide in favor of the applicant any matter upon which it is required to pass, or to approve any variance in the provisions of this chapter.

2. Default denial of appeal. If an affirmative vote of a majority of all members of the Board is not attained on a motion or resolution to grant a variance or reverse any order, requirement, decision, or determination of the enforcement official within the time allowed, the appeal is denied. The Board may amend the failed motion or resolution and vote on the amended motion or resolution within the time allowed without being subject to the rehearing process.

H. Minutes. Minutes of all proceedings shall be recorded and shall show the action of the Board and the vote of each member on every motion or, if absent or failing to vote, indicating such fact. All proceedings shall be filed in the Planning Department and shall be a public record.

I. Filing requirements. Every rule, regulation, amendment, or repeal thereof, and every order, requirement, decision, or determination of the Zoning Board of Appeals, shall be filed in the office of the City Clerk within five business days and shall be a public record.

J. Board rules. The Zoning Board of Appeals shall adopt any rules and regulations as may be necessary or proper to the performance of its duties, and may amend or repeal such rules and regulations as necessary.

K. Compatibility of offices. The municipal officials or employees on such Board shall not, by reason of membership thereon, forfeit their right to exercise the powers, perform the duties, or receive the compensation of the municipal office or position held by them during such membership. No municipal officer or employee shall be appointed to the Zoning Board of Appeals in the event such officer or employee cannot carry out the duties of his or her position without a conflict in the performance of his or her duties as a member of the Zoning Board of Appeals. In accordance with General City Law § 81(2), no person who is a member of the legislative body of the City of Binghamton shall be eligible for membership on said Zoning Board of Appeals.

L. Each member of the Zoning Board of Appeals shall be paid an annual stipend of four hundred ($400.00) dollars. Payments shall be made in four installments, on or about April 1, July 1, October 1, and January 1 (for the previous year). Any member joining the Zoning Board of Appeals other than prior to the first meeting of the year will be paid a proportionate amount of the stipend. Any member who is removed pursuant to the Code of the City of Binghamton Article I, Vacancies due to nonattendance; § 16-1, Application; § 16-2, Determination of vacancy; or § 410-91.D, Removal of members, shall not be paid for any missed meetings leading to dismissal.

§ 410-92. Zoning Board of Appeals powers and duties.

A. General. The Zoning Board of Appeals shall have all the powers and duties prescribed by the General City Law of the State of New York and this chapter. None of the provisions set forth in this § 410-92, or elsewhere in this chapter, shall limit any of the powers of the Zoning Board of Appeals conferred by General City Law.

B. Interpretation. On appeal from any person, firm or corporation, or from any official or agency of the City of Binghamton, the Zoning Board of Appeals shall have authority to decide any question involving the interpretation of any provision of this chapter made by the Zoning Officer acting as the official responsible for its enforcement. (See § 410-93.)

C. Use variance.

1. Where there is unnecessary hardship created by carrying out the strict letter of this chapter as to permitted use of a building or land, the Zoning Board of Appeals may vary the use regulations so that the spirit of the chapter shall be observed. No use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused necessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

a. Reasonable return: the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.

b. Unique hardship: the alleged hardship for the property is unique and does not apply to a substantial portion of the district or neighborhood.

c. Essential character of the neighborhood: granting the variance will not alter the essential character of the neighborhood.

d. Not self-created hardship: the alleged hardship has not been self-created.

2. The Zoning Board of Appeals, in the granting of the use variance, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community. (3) The granting of a use variance does not relieve the applicant of the responsibility for meeting the bulk requirements for permitted uses in the applicable district.

D. Area variance.

1. Where there are practical difficulties or special conditions which make regulations governing lot size, yard size, building height, solar access or any other regulations pertaining to bulk and not specifically related to use of land or buildings unreasonable or impossible to comply with, the Zoning Board of Appeals may vary or modify these regulations as long as the spirit of the regulation to be altered is observed. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:

a. Undesirable change in neighborhood character: whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

b. Alternative cure sought: whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

c. Substantiality: whether the area variance requested is substantial;

d. Adverse effect or impact: whether the requested variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;

e. Not self-created: whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

2. The Zoning Board of Appeals, in granting an area variance, shall grant the minimum variance that it shall deem necessary and adequate, and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

E. Nonconforming use. Upon application, the Zoning Board of Appeals may authorize the alteration, enlargement, reconstruction, moving, replacement of, or additions to, a nonconforming building or structure, subject to the provisions specified in § 410-75 of this chapter.

F. Conditions and safeguards. In all cases where the Zoning Board of Appeals acts pursuant to powers established by law or this chapter, the Board may impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

§ 410-93. Applications to Zoning Board of Appeals.

A. Application for variance, notice of appeal. Any request for a variance or for relief from an order, requirement, decision or determination of the Supervisor of the Zoning Officer acting as the official responsible for enforcement of this chapter, or any request for a Zoning Board of Appeals interpretation or approval as may be required by the provisions of this chapter, shall be submitted by filing an application for a variance or a notice of appeals with the Planning Department. Such application or notice shall be in writing on forms prescribed by the Board.

B. Content of application for a variance or notice of appeal. Each application for a variance or notice of appeal shall fully set forth the circumstances of the case, shall refer to specific provisions of this chapter involved, and shall set forth the interpretation claimed, or the details of the use or area variance requested and the grounds on which it is believed that the interpretation or variance should be approved.

C. Graphic description. When appropriate, the written application for a variance or notice of appeal shall also contain graphic material (maps, surveys, photographs, etc.) which clearly illustrates the nature of the application or appeal. The Zoning Board of Appeals may refuse to consider any application for a variance or notice of appeal which does not contain adequate graphic documentation to fully explain the relief requested.

D. Record. The application for a variance or notice of appeal, and all the papers constituting a record of the application or action being appealed, shall forthwith be transmitted to the Zoning Board of Appeals by the Planning Department. (See also § 410-94C.)

E. Stay. An application for a variance or notice of appeal stops all further proceedings on the matter in question unless the Supervisor of the Office of Building and Construction certifies to the Board that, for reason set forth in the certificate, a stay would cause imminent peril to life and property. In such case, proceedings shall be stopped only by a restraining order which may be granted by the Zoning Board of Appeals or by the Supreme Court on notice to the official or agency from whom the appeal is taken and on due cause shown.

§ 410-94. Procedure for appeals. [Amended 8-7-2013 by Ord. No. 13-49; Amended 10-4-2017 by Ord. No. 17-59]

A. Public hearing. The Zoning Board of Appeals shall hold a public hearing on any application or appeal within a reasonable time after such application or appeal is received by the Board. At such public hearing any party may appear in person or by agent or attorney.

B. B. Public notice.

1. Public Notice by Planning Department. Upon receipt of payment of a notification fee, as set by the City Council, from an applicant, the Planning Department shall provide public notice to the official newspaper of the City of Binghamton (the Press and Sun Bulletin) and to complete required notice mailings (See Exhibit J).

    a. Newspaper. Notice of any public hearing shall be published in the official newspaper of the City of Binghamton (the Press and Sun Bulletin) at least 7 calendar days prior to the date of the hearing, excluding the hearing date.

    b. Mailings. Additionally, at least 7 calendar days prior to the public hearing, notice thereof shall be sent by U.S. mail to the owners of record and all other properties within a distance of 200 feet from the boundary of the subject property and to the regional state park commission when the subject property is within 500 feet of any state park or parkway.

    c. Public notice sign posted by Applicant. At least 7 calendar days prior to the public hearing, excluding the hearing date, a public notice sign shall be posted on the property by the applicant. The sign(s) shall contain information specific to the applicant's case, such as the time, date, and location of the hearing, the types of variances required, and the proposed action. One sign shall be required for every 300 linear feet of property frontage. The sign(s) must be placed I either the front yard or a visible window when no front yard exists. If the property is a corner lot, one sign must be placed I each front yard.

    d. Verification of notice. Verification of notice as required by this § 410-39D shall be prepared by the Planning Department at least 5 calendar days prior to the public hearing.

Such verification shall consist of a statement from the Press and Sun Bulletin and a signed affidavit of notice prepared by the Planning Department.

e. Cost. The preparation of and cost of publication, mailing of required notice of public hearing, and sign posting shall be borne by the applicant.

C. Referrals.

1. To the Planning Department. At least 20 business days prior to any public hearing on an application for any use or area variance, or a modification of a nonconforming use, such appeal shall be filed with the Planning Department for review as to conformance with the City's planning objectives and for an environmental assessment of Type I and unlisted actions. The Planning Department shall review the application for conformance with the City's planning objectives and for an environmental assessment on the proposed action prior to the public hearing.

2. To the Broome County Department of Planning.

a. Before taking final action on all applications for an area or use variance or expansion of a nonconforming use, such applications shall be referred to the Broome County Planning Department for report and recommendation in accordance with § 239-l, -m, -n, and –nn.

b. If the County Department of Planning fails to make such report within 30 days after receipt of any matter referred by the Planning Department, action may be taken without such report in accordance with § 239-m(4)(b) of the General Municipal Law. If the County Department of Planning disapproves of the proposal, or recommends modification thereof, the Zoning Board of Appeals may act contrary to such disapproval or recommendation only by a vote of a majority plus one of all the members thereof. The Zoning Board of Appeals shall file a report of its action with the

c. County Department of Planning within seven days after such action is taken.

D. Adjournment. The hearing for any application or appeal to the Zoning Board of Appeals may be adjourned for a period not to exceed 45 days for the purpose of obtaining additional information or clarification, or to provide further opportunity for the applicant and any opposing view to present more detailed evidence, or to cause such further notice to be served upon other property owners as may be deemed necessary or desirable by the Board.

E. Board decision. The Zoning Board of Appeals shall decide on applications or appeals, or any other matter upon which it is required to act, within 62 days after the conclusion of the public hearing. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.

§ 410-95. Reconsideration.

Any decision, determination or order previously made by the Zoning Board of Appeals may be reconsidered as follows:

A. Motion. A motion for such reconsideration may be made by any member of the Board and shall be adopted unanimously by all members present. Such motion to reconsider shall not be made less than 90 days after the initial Board action on the matter to be reconsidered.

B. Notice. Notice of such reconsideration shall be given in the same manner as the original hearing. (See § 410-94B.)

C. C. Action on notice to reconsider. Upon such reconsideration, the Zoning Board of Appeals may reverse, modify, or annul its original order, decision, or determination upon the unanimous vote of all members then present, provided the Zoning Board of Appeals finds that the rights vested in

persons acting in good faith in reliance upon the reheard order, decision, or determination will not be prejudiced thereby.

§ 410-96. Reapplication.

Unless the Zoning Board of Appeals determines, by the unanimous vote of members present, that substantial new evidence has become available, a second application on any previously decided case will not be heard.

§ 410-97. Environmental assessment.

If the advisory report from the City Planning Department indicates that approval of an application submitted to the Zoning Board of Appeals could have a significant environmental impact, no such approval shall be given until an environmental assessment and declaration have been made by the lead agency.

§ 410-98. Invalidation.

Any building and zoning permit issued in conformance with an action of the Zoning Board of Appeals shall be subject to the provisions of § 410-84H of this chapter. Should the appellant or applicant fail to comply with these provisions, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn or abandoned the appeal or application, and such permission or variance granted shall be deemed automatically rescinded and invalidated by the Zoning Board of Appeals unless an extension of time is granted by such Board.

§ 410-99. Compliance with other regulations.

Zoning Board of Appeals approval of any action applied for does not remove the applicant's responsibility to comply with all other applicable regulations of the City of Binghamton.

ARTICLE XV, Amendments and Changes

§ 410-100. Authority.

Pursuant to § 83 of the General City Law, and other applicable provisions of the law, the City Council may, from time to time on its own motion or on petition, after public notice and hearing, amend, supplement, repeal or change the regulations and districts established under this chapter.

§ 410-101. Amendment by petition.

Whenever the owners of 50% or more of the frontage in any district, or part thereof, shall present a petition, duly signed and acknowledged, to the Council requesting an amendment, supplement, change or repeal of the regulations prescribed for such district or part thereof, it shall be the duty of the Council to vote upon said petition within 90 days after filing of the same by the petitioners with the City Clerk.

§ 410-102. Protest.

A. If a protest against any proposed amendment, supplement, repeal, or change be presented, duly signed and acknowledged by the owners of 20% or more of the area of the land included in such proposed change or by the owners of 20% or more of the area of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the area of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not be passed except by a three-fourths vote of the entire membership of the City Council. B. In order to determine whether or not any ordinance rezoning a district or a portion of a district shall require a majority vote or a three-fourths vote for the passage of such ordinance, the Planning Department shall make a written report certifying whether or not a protest as set forth in Subsection A has been made.

§ 410-103. Referral to Planning Commission.

Every proposed amendment or change initiated by City Council or by petition shall be referred to the Planning Commission for report thereon before the public hearing required by law. In recommending the adoption of any such proposed amendment, the Planning Commission may state its reasons for such recommendation, describing any conditions that it believes made the amendment advisable, and specifically setting forth the manner in which, in its opinion, the amendment would be in harmony with the comprehensive plan of land use for the City, and be in furtherance of the purposes set forth in Article I of this chapter. In recommending the rejection or revision of any proposed amendment or change, the Planning Commission may similarly state its reasons. Failure on the part of the Commission to report its recommendations with respect to any proposed amendment or change to the City Council within 45 days after the date of referral shall be deemed to be approval thereof, unless such proceedings have theretofore been terminated.

§ 410-104. Changes in zoning regulations.

Pursuant to § 37 of General City Law, the Planning Commission may make any reasonable changes in applicable zoning regulations when this is done as part of subdivision plat approval. Such changes by the Planning Commission shall be based on the submission and approval of a detailed site plan indicating land use, building type, density, coverage, yards, parking, drainage, landscaping, and any other information required by the Planning Commission. In considering such changes, and after a public hearing thereon, the Planning Commission may require clustering of structures and may permit nonresidential land uses in the subdivision when this is deemed to be consistent with public welfare. While dwelling unit types can be modified, the development density cannot exceed that which would normally be permitted in the district in which the proposed subdivision is located.

§ 410-105. Environmental assessment.

Before adopting any proposed amendment to this chapter, the City Council shall assess the environmental impact of such amendment in accordance with the State Environmental Quality Review Act and may determine that an environmental impact statement on such amendment shall be prepared.

ARTICLE XVI, Miscellaneous Provisions

§ 410-106. Interpretation.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, comfort and general welfare and, more particularly, for the purposes set forth in Article I. It is not intended by this chapter to interfere with or abrogate or annul any easement, covenant or other agreement between parties, or any lawfully adopted rules, regulations or ordinances; provided, however, that when this chapter imposes a greater restriction on the use of land or buildings, or on the height of buildings, or requires larger open spaces, or makes other greater requirements than are imposed or required by any other ordinance, rule or regulation, or by easements, covenants or agreements, the provisions of this chapter shall control.

§ 410-107. Fees.

For the purpose of defraying administrative and other costs involved in review of applications and appeals, fees as set from time to time by the City Council for permits and applications shall be required, in addition to any and all other fees required by any other section of this or any other ordinance, local law or regulation of the City (See Exhibit J).

§ 410-108. Short title.

This chapter shall be known as, and may be cited as, the "Zoning Ordinance of the City of Binghamton."

§ 410-109. Repeal.

This chapter shall repeal the ordinance entitled, "Zoning Ordinance of the City of Binghamton," duly adopted by Binghamton City Council on April 6, 1987, and as subsequently amended.